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THE LAW SOCIETY OF UPPER CANADA

# Minutes of Convocation

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**VOLUME 1**

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THE LAW SOCIETY OF UPPER CANADA

# Minutes of Convocation

Volume I Number I

This is the first issue of the Minutes of Convocation to be prepared and distributed in the new way. The type is set and composed by the Society's staff and then printed by the photo offset process by General Printers which has the Society's mailing list.

This method will take the place of publication in the Ontario Reports except for those minutes which are already in the printer's hands for inclusion in future numbers of O.R.

We have made no change in page size or general format so that those who have been in the habit of collecting the minutes and having them bound uniformly will be able to continue doing so.

At present the minutes are being sent to everyone who receives the Ontario Reports. It may be that some do not want to receive the minutes and that it is wasteful to send them to all members. In future issues a form will be included on which members will be able to indicate if they wish to continue receiving the minutes. Beginning with those of the January, 1977 Convocation the minutes will be mailed *only* to those who have indicated they want them by completing and returning the form.

The Society experienced some unexpected delay in obtaining the necessary equipment and staff to accomplish this new method of publication of the minutes. We will soon be fully operational and from now on you may expect to have the abridged minutes delivered to you more promptly than has been possible in the past.

# MINUTES OF CONVOCATION
## (ABRIDGED)

Friday, 21st May, 1976
10:00 a.m.

**PRESENT**:

The Treasurer (Mr. Stuart Thom and after his election Mr. W.G. Gray) and Messrs. Bowlby, Brulé, Bynoe, Carnwath, Carrier, Carter, Cartwright, Cass, Chadwick, Chappell, Common, Farquharson, Finlayson, Furlong, Goodman, Ground, Henderson, Kellock, Mrs. Legge, Messrs. Levinter, Lochead, Linden, O'Brien, Ogilvie, Pallett, Pepper, Rogers, Salhany, Seagram, Sheard, Shepherd, Shibley, Strauss, Mrs. Sutherland, Mrs. Tait, Messrs. White and Williston.

. . . . . .

**ELECTION OF TREASURER**

The Secretary informed Convocation of the results of the balloting.

It was moved, seconded and *carried* that Mr. W.G. Gray be elected Treasurer for the ensuing year.

Mr. Thom withdrew from Convocation and Mr. Gray took the chair.

On assuming the position of Treasurer, Mr. Gray spoke briefly stating that he would do his utmost to uphold the strength and tradition of the Society and that even though the legal profession in general and the Society in particular faced many challenging problems, he knew that all members of Convocation would assist in the forthcoming year in the resolution of these problems.

. . . . . .

**MINUTES**

The Minutes of Convocation of 23rd April, 1976 were read and confirmed.

. . . . . .

**APPOINTMENT TO STANDING COMMITTEE**

It was moved, seconded and *carried* that Mr. Stuart Thom be appointed a member of the Legal Education Committee.

. . . . . .

**APPOINTMENT TO SPECIAL COMMITTEE**

It was moved, seconded and *carried* that Mr. Stuart Thom continue as a member of the Building Committee (a Special Committee of Convocation) and that the new Treasurer be appointed Chairman of the Building Committee.

. . . . . .

## LEGAL EDUCATION COMMITTEE—Mr. Finlayson

Mr. G.D. Finlayson, Chairman, presented the Report of the Legal Education Committee of its meeting on Thursday, 13th May, 1976.

The following members were present: Mr. J.D. Ground, Vice-Chairman in the Chair, and Messrs. Rogers, Salhany, Shibley and Mrs. Tait.

**BAR ADMISSION COURSE AND CONTINUING EDUCATION**

The Committee granted three requests by persons who wished to audit the teaching portion of the Bar Admission Course at either Ottawa or London; dealt with a number of special petitions and requests; considered financial statements for the Bar Admission Course and Continuing Education and approved its estimates for the forthcoming year for submission to the Finance Committee.

**CONTINUING EDUCATION PROGRAMMES**

The Committee reported that the following Continuing Education programmes were presented in April:

(a) Real Estate for Legal Secretaries

Thursday, April 8th, 1976 at Toronto
Chairman: Miss Miriam Kelly
Number of registrants: 319

(b) The Personal Property Security Act

Friday, April 9th, 1976 at Toronto
Chairman: Mr. Bradley Crawford
Number of registrants: 231

(c) The Personal Property Security Act

Monday, April 12th, 1976 at Timmins
Chairman: Mr. Bradley Crawford
Number of registrants: 16

(d) Discoveries

Wednesday, April 17th, 1976 at Ottawa
Chairmen: Messrs. J.B. Chadwick and Roger N. Seguin
Number of registrants: 95

(e) Emerging Problems in Evidence

Wednesday, April 21st, 1976
Chairman: Mr. Kenneth Radnoff
Number of registrants: 15

(f) Recent Amendments to the Ontario Labour Relations Act

Friday, April 30th, 1976 at Toronto
Chairmen: Messrs. Raymond Koskie and Warren K. Winkler
Number of registrants: 152

**CONTINUING EDUCATION PUBLICATIONS**

The Committee received the following report on Continuing Education publications as of April 1976:

1. Total book sales: 1,533
2. Total subscription sales: 11
3. Total audiocassette sales: 161
4. Total videocassette sales: 1 complete set ($829.25)
5. Direct Mail Promotion:

   Current Developments in Shopping Centres – text flyer

6. Advertisements in Ontario Reports:

   Canadian Communications Regulatory Manual
   Current Developments in Shopping Centres

7. Books completed by MTST:

   Recent Developments in the Law of Damages
   Shareholders and Shareholders Agreements

8. Books ready to be typeset:

   Debentures and Their Enforcement
   Poverty Law
   Medicine and the Law
   The Continuing Education Publications List

9. Books completed in the printshop and put into stock:

   Recent Developments in the Law of Damages
   O.M.B. Consolidation
   Life Insurance Law
   Court of Appeal Consolidation
   Creditor's Rights and Bankruptcy
   O.M.B. November/January
   Court of Appeal, February
   Court of Appeal, January
   Income, Wage and Price Controls: The Anti-Inflation Act
   The Foreign Investment Review Act

10. Books ready to be printed:

    O.M.B. February

It was moved, seconded and *carried* that Mr. William Rolland Buchner be appointed as of 1st June, 1976 as Assistant Director of the Bar Admission Course in London.

**THE REPORT WAS ADOPTED**

. . . . . .

Mr. Finlayson presented the Report of the Legal Education Committee of its meeting on Thursday, 6th May, 1976 to consider student petitions arising out of the Seventeenth Bar Admission Course.

The following members were present: Mr. J.D. Ground, Vice-Chairman in the Chair, and Messrs. Brulé, R.J. Gray, Rogers, and Mrs. Tait.

The Committee received petitions from four students and after hearing representations on their behalf granted two of them and denied the remaining two.

**THE REPORT WAS ADOPTED**

. . . . . .

## DISCIPLINE COMMITTEE–Mr. Lochead

### Re: GEORGE LEWIS COLE, London

Mr. G.H. Lochead, Chairman, placed the matter before Convocation.

Mr. Shepherd was not present, took no part in the discussion and did not vote.

The reporter was sworn.

The solicitor attended with his counsel, Mr. Mendel Green. The Society was represented by Mr. E.A. Du Vernet.

The Decision of the Discipline Committee dated 10th May, 1976, wherein the solicitor was found guilty of professional misconduct, was read by the Secretary.

It was moved and seconded that the Decision of the Discipline Committee be accepted.

Counsel for the solicitor did not dispute the decision.

The motion that the Decision of the Discipline Committee be accepted was *carried.*

Submissions respecting penalty were made.

Two motions were made respecting penalty.

The solicitor, having misappropriated more than $50,000 of clients' trust funds, was disbarred.

. . . . . .

## ADMISSIONS COMMITTEE–Mr. Pepper

Mr. P.B.C. Pepper, Chairman, presented the Report of the Admissions Committee of its meeting on Thursday, 13th May, 1976.

The following members were present: Mrs. L.L. Legge, Vice-Chairman in the Chair, and Messrs. Cass, R.J. Gray and White.

### ESTIMATES 1976 – 1977

The estimates for the year are before the Committee.

*Approved*

### ADMISSION OF STUDENTS–AT–LAW

Two candidates, having complied with the relevant Regulations, paid the required admission fee of $101 and filed the necessary papers, applied for admission to the Law Society as students-at-law of the Bar Admission Course for the 1975-76 Term, one under Bar Admission Regulation 26(5) and the other under the General Transfer Provision.

### DIRECT TRANSFER

The Committee considered and approved four applications to transfer to practice in Ontario by lawyers from other common law provinces of Canada.

The Committee considered and approved two applications to transfer to practice in Ontario by lawyers from Quebec.

The Committee considered and refused an application by a lawyer from Jamaica because he failed to satisfy the requirements of the Regulation.

**OCCASIONAL APPEARANCE**

*A.J. Campbell,* of the Province of Quebec applied to proceed under Section 10 of the Regulation "Occasional Appearances in Ontario" of lawyers from other provinces in the case of the *Queen v. Louis de Gonzaque Giguere, et al.* Having complied with the requirements of Section 10 of the Regulations, Mr. Campbell asked to be called to the Bar and admitted as a solicitor in Ontario. The Committee recommended approval of the application.

*Paul Walsh* is a member of the Bar in Manitoba and practises in Winnipeg. In November, 1975 Mr. Walsh was called to the Bar in Ontario pursuant to the Rule permitting Occasional Appearances. The case on which he was engaged has not been completed. He sought permission to appear on another case involving criminal charges, in a Provincial Judges' court at Red Lake, Ontario. Mr. Walsh said that he intended to apply to become a member of the Bar of Ontario under the transfer regulation and, if approved, to sit the necessary examination in January, 1977.

The Committee recommended that his application be denied.

**REPORT OF EXAMINING BOARD**

The report of the examination held in May, 1976 was before the Committee. Three candidates sat the examination. Two passed and one failed. The Committee approved the report.

**EXTERNAL EXAMINATIONS**

Four candidates were approved by the Committee to proceed under Regulation 4(2) and former Regulation 5. They sat the required examination at Osgoode Hall. Two passed and two failed. The Committee approved the report.

It was moved, seconded and *carried* that the Walsh matter be permitted to stand.

**THE REPORT WAS ADOPTED**

. . . . . .

## FINANCE COMMITTEE–Mr. Shepherd

Mr. A.E. Shepherd, Chairman, presented the Report of the Finance Committee of its meeting on Thursday, 13th May, 1976.

The following members were present: Messrs. Pallet (Vice-Chairman), Fennell, W.G. Gray, Ground, Ogilvie and Wilson.

### ROLLS AND RECORDS

*Appointment to the Bench*

The following member has been honoured by his appointment to judicial office and his membership in the Society will be placed in abeyance upon his assuming office:

| | |
|---|---|
| Harry Momotiuk<br>Windsor | Called – 25 March 1966<br>Appointed Provincial Judge,<br>Essex County – 7 April 1976 |

*Deaths*

The following members have died:

| | |
|---|---|
| Cornelius John McDougall, Q.C.<br>Cornwall (Life Member) | Called – 21 June 1923<br>Deceased – April 1976 |
| Clifford Sifton, Q.C.<br>Buttonville | Called – 15 September 1927<br>Deceased – 8 April 1976 |
| Cecil Lorne Carrick, Q.C.<br>Burlington (Life Member) | Called – 18 September 1914<br>Deceased – 8 April 1976 |
| Kenneth Sheridan Ham, Q.C.<br>Napanee (Life Member) | Called – 19 May 1921<br>Deceased – 12 April 1976 |
| Manuel Frankel<br>Toronto | Called – 20 September 1928<br>Deceased – 3 August 1975 |
| Duncan Roy Kennedy, Q.C.<br>Ottawa (Life Member) | Called – 15 September 1921<br>Deceased – March 1976 |
| Vincent Walter Price, Q.C.<br>Rockwood (Life Member) | Called – 20 May 1920<br>Deceased – 17 April 1976 |
| John Wakely Howard Day, Q.C.<br>Sutton West | Called – 20 June 1946<br>Deceased – 15 April 1976 |
| Saul Cohen<br>Hamilton | Called – 16 September 1937<br>Deceased – 18 April 1976 |
| Glynn Albert Green, Q.C.<br>Welland | Called – 29 June 1949<br>Deceased – 1 May 1976 |

*Noted*

**RESIGNATIONS**

*Edward Garvin Caldbick* of Montreal, and *John Gordon Collinson* of Hamilton, applied for permission to resign their membership in the Society and asked to be relieved of the requirement of publication in the Ontario Reports.

*Approved*

**WITHDRAWAL OF RESIGNATION**

*John Taylor Ramsay* of Calgary applied to the Finance Committee in April 1975 to resign his membership in the Society. He withdrew his request after it had been approved by the Committee and Convocation and an Annual Certificate was issued to him.

The Committee recommended that Mr. Ramsay be permitted to withdraw his application for permission to resign as of 10th April, 1975.

**CHANGE OF NAME**

*Marie Bernetta Moser,* a solicitor practising in Peterborough, requested that her name be changed on the Rolls of the Society to Marie Bernetta *Morris*, her married name. Her petition was before the Committee.

*Approved*

**LIBRARIES AND REPORTING COMMITTEE**

The following item appeared on the agenda of the Libraries and Reporting Committee at its meeting today:

*Barristers' Library – 145 Queen Street West*

"Space occupied by the Barristers' Library on the fourth floor of 145 Queen Street West has been taken over by the Supreme Court for extension of court room facilities. Alternative space has been provided in the basement area of the same building and the move of books and materials will take place on Friday, May 14, 1976, with cost assumed by the Provincial Government.

The space granted the Law Society for library facilities was examined by Mr. Heeney, the Law Society's architect, and plans for the lay-out of stacks, desk and counter drawn up. While

there is less space available, it is possible to locate all of the stacks required by eliminating two reading tables, allowing two others now on hand to be used, providing seats for eight people, which is satisfactory at this time. Arrangements for proper ventilation, lighting and suitable flooring will be taken up with the government representatives involved. It is expected the costs of any necessary changes will be taken up by the Province, except the cost of relocating telephones and fees of Mr. Heeney.

The locker rooms for men and women barristers will also be taken over for court expansion purposes and alternate space will be given adjacent to the newly located library after July 1, 1976."

*Approved*

**DISCIPLINE COMMITTEE**

An up-to-date schedule of amounts outstanding in respect of orders as to costs made by Convocation against members who have been subject to Discipline Committee hearings was before the Committee.

*Noted*

**INSURANCE – VALUATIONS**

Valuations made for insurance purposes based on additions and increases in replacement value will increase from $12,612,823 to $13,347,252. Mr. Heeney, the Society's Architect, suggested that a new valuation be made on a unit basis similar to that undertaken in 1949 and 1959. The estimated cost of this new valuation is $7,000.

The Committee recommended that the insurance be increased forthwith to $13,347,252 and that Mr. Heeney be asked to obtain a new valuation on a unit basis at an estimated cost of $7,000.

**INDEX TO MINUTES OF CONVOCATION**

Mr. George Johnston was engaged on July 1st, 1975 for one year to prepare a cross-index of the Minutes of Convocation. Approval was requested to continue this arrangement for a further year.

*Approved*

**THE REPORT WAS ADOPTED**

. . . . . .

## DISCIPLINE COMMITTEE (Continued)

### GENERAL REPORT

Mr. Lochead, Chairman, presented the General Report of the Policy Section of the Discipline Committee of its meeting on Thursday, 13th May, 1976.

The following members were present: Messrs. Lochead (Chairman), Bynoe (Vice-Chairman), Cartwright and Furlong.

**JEAN PAUL STE. MARIE**

Mr. Ste. Marie was granted an Occasional Appearance Call to the Bar on November 21st, 1975. Mr. Ste. Marie was disbarred by the Bar of Quebec on May 5th, 1976. The Committee discussed Mr. Ste. Marie's status insofar as The Law Society of Upper Canada was concerned. The following resolution was passed:

> "that as Jean Paul Ste. Marie has ceased to be a member of the legal profession outside Ontario, his membership in the Society, his call to the Bar, his admission as a solicitor and his entitlement to appear have automatically ceased to exist, and the consent of the Treasurer to appear as counsel in a specific proceeding shall be considered to be withdrawn;
>
> your Committee therefore recommends to Convocation that it make an Order to this effect and that Jean Paul Ste. Marie be informed of such Order."

The Committee instructed the Secretary to send a registered letter to Mr. Ste. Marie informing him that this resolution was to be placed before Convocation on May 21st, 1976.

**THE REPORT WAS ADOPTED**

. . . . . .

## COMPENSATION FUND SUMMARY

Mr. Lochead presented the Summary of the Compensation Fund for the period ended 30th April, 1976.

### COMPENSATION FUND

**For the Period ended 1st July, 1975 to 30th April, 1976 (10 months)**

| | |
|---|---|
| TOTAL RECEIPTS | $ 263,365.08 |
| TOTAL DISBURSEMENTS | $ 183,466.07 |
| EXCESS OF RECEIPTS OVER DISBURSEMENTS | $ 79,899.01 |
| BALANCE OF FUND 1st July 1975 | $1,414,187.62 |
| BALANCE OF FUND 30th April 1976 | $1,494,086.63 |

### RESUME OF GROSS CLAIMS OUTSTANDING

| | |
|---|---|
| CLAIMS RECEIVED and in the course of being processed as of 30th April 1976 | $2,473,533.89 |
| TOTAL PAID to 30th April 1976 from the commencement of the Fund on account of 938 claims of 99 former solicitors | $3,519,858.92 |

**THE SUMMARY WAS RECEIVED**

. . . . . .

## LEGAL AID COMMITTEE–Mr. Bowlby

Mr. J.D. Bowlby, Chairman, presented the Report of the Legal Aid Committee of its meeting on Wednesday, 12th May, 1976.

The following members were present: John D. Bowlby, Q.C., Chairman, and Messrs. Baker, Barnes, Carnwath, Chadwick, Cherniak, Fairbairn, Ferrier, Mrs. Fleming, Mr. Harris, Mrs. Jarmain, Messrs. Jones, Lamb, Leitch, Levinter, Lewis and Mrs. Smyth.

Also present at the meeting by special invitation were John Swaigen, Solicitor, Toronto, representing the Law Union and S.R. Ellis, Executive Director, Parkdale Community Legal Services.

## REPORT OF THE DEPUTY DIRECTOR

*(a) Finance*

A last minute injection of funds ($800,000) by the Ministry of the Attorney General enabled the Plan to pay an additional 2,570 solicitors' accounts by March 31st, 1976. At year-end there remained a total of 8,264 accounts received but unpaid – equivalent to approximately six weeks intake of accounts.

The fiscal year ended March 31, 1976, is summarized as follows:

| Receipts | $,000 | $,000 |
|---|---|---|
| Province of Ontario | 18,225.4 | |
| Law Foundation | 4,938.0 | |
| Client contributions | 1,210.9 | |
| Costs recovered | 686.8 | |
| Miscellaneous income | 57.7 | 25,118.8 |
| Disbursements | | |
| Criminal Legal Aid | 10,923.4 | |
| Civil Legal Aid | 6,823.0 | |
| Legal Advice | 184.8 | |
| Duty Counsel payments | 2,489.9 | |
| Community Legal Service Groups | 295.6 | |
| Student Legal Aid Societies | 126.0 | |
| Area Office costs | 2,502.1 | |
| Administrative expenses | 1,762.0 | 25,106.8 |
| Excess of Receipts over Disbursements | | 12.0 |

*(b) Statistics*

The following table compares actual Legal Aid activity for the year ended March 31st, 1976, with last year and the target for 1975-76.

| | *Actual 1974 – 1976* | *Actual 1975 – 1976* | *Target 1975 – 1976* | *% increase over last year* | *% increase over target* |
|---|---|---|---|---|---|
| Informal applicants | 67,165 | 94,875 | 77,330 | 41.2 | 22.7 |
| Applications for certificates | 93,153 | 107,193 | 100,370 | 15.1 | 6.8 |
| Certificates issued | 72,715 | 86,486 | 81,500 | 18.9 | 6.1 |
| Persons assisted by Duty Counsel | 125,771 | 153,043 | 139,700 | 21.7 | 9.6 |

*(c) Write-offs*

George E. Wallace, Vice-Chairman, approved the writing-off of amounts due to the Legal Aid Fund totalling $11,481.40.

*(d) Annual Report of the Director for year ended March 31st, 1976*

The Annual Report of the Director for the year ended March 31st, 1976, pursuant to Section 96 of the Regulation, was approved by the Committee.

**REPORT OF THE LEGAL ACCOUNTS OFFICER FOR THE MONTH OF APRIL, 1976**

*(a) Activity*

| | *February* | *March* | *April* |
|---|---|---|---|
| Accounts on hand at beginning of the month | 5130 | 5657 | 5087 |
| Accounts received during month | 5630 | 6214 | 5567 |
| Total accounts to be processed | 10760 | 11871 | 10654 |
| Less A.O. Files cancelled during month | 39 | 380 | 43 |
| Less Accounts Processed during month | 5064 | 6404 | 5637 |
| Balance on hand at month end | 5657 | 5087 | 4974 |

The above figures do not reflect accounts for Interim Disbursements and Supplementary Payments.

*(b) Reviews*

| | *February* | *March* | *April* |
|---|---|---|---|
| Reviews on hand | 105 | 222 | 114 |
| Reviews received in | 154 | 75 | 123 |
| | 259 | 297 | 237 |
| Settlements reviewed | 84 | 142 | 127 |
| Settlements awaiting review | 154 | 137 | 91 |
| Settlements awaiting further information | 21 | 18 | 19 |
| | 259 | 297 | 237 |

*(c) Appeals*

| | | | |
|---|---|---|---|
| Appeals to Taxing Master received during April | - | - | 1 |
| Appeals heard by Taxing Master | 1 | - | 1 |
| Appeals pending at the end of the month | 1 | 1 | 1 |
| Appeals abandoned | - | - | - |

**ANNUAL MEETING OF THE LAW SOCIETY, DECEMBER 1975 – LEGAL AID**

The Director received correspondence from the Treasurer forwarding Minutes of the Annual Meeting of The Law Society held December 15th, 1975. The Treasurer drew attention to Resolution 4 respecting Legal Aid.

The resolution as amended at the said Annual Meeting read as follows:

> "BE IT RESOLVED that the Law Society recommend to the Government of Ontario that it implement at the earliest possible opportunity the principles set forth in Part I of the Report of the Osler Task Force on Legal Aid in such a manner as to maximize coverage of the Plan, leave control of the Plan in the hands of the Law Society, and provide effective participation by consumers of legal services in the control and administration of the plan."

After hearing from Messrs. Swaigen and Ellis, the Committee recommended that the Resolution, as amended, be dealt with at a Special Meeting of the Law Society called for that specific purpose.

**MINISTRY OF COMMUNITY & SOCIAL SERVICES – FINANCIAL INTERVIEWS YORK COUNTY PILOT PROJECT**

At its February, 1976 meeting the Committee extended a pilot project commenced in York County in November, 1975, for a further three month period wherein an applicant for legal aid is not subjected to a separate financial interview in most cases.

A form has been designed wherein the applicant gives all the necessary information on legal aid financial background to the interviewer in the Area Director's office. The single form is then reviewed not only by the Area Director as to legal eligibility but also by a field officer of the Ministry of Community & Social Services as to financial eligibility. From the single form is then determined whether a certificate should, in fact, issue. This relieves the applicant of having to be subjected to two interviews at different times and thereby promotes the expeditious issuance of a legal aid certificate.

W.R. Donkin, Area Director, York County submitted a report to the Legal Aid Committee and in conclusion submitted that:

(1) Community & Social Services staff and Legal Aid staff can work closely together with no real difficulties;

(2) The change in standards applied by Community & Social Services has resulted in approximately the same number of certificates being issued but the decisions are more uniform, and therefore fairer;

(3) The method of handling applications is more satisfactory to the applicant;

(4) From an administrative standpoint the method of handling applications is cheaper;

(5) Forms can be changed satisfactorily to accommodate the new system;

(6) The change in system would not appear to indicate or require any marked increase in the number of certificates.

The Committee recommended that this experiment in York County be continued on a permanent basis.

**SUB-COMMITTEE TO REVIEW CRIMINAL LEGAL AID CERTIFICATES**

At its January 1976 meeting the Committee appointed a Sub-Committee to review the propriety of a law firm representing two jointly accused persons by two lawyers of the same firm. The Sub-Committee consisted of the following members:

Ray Harris, Solicitor, Hamilton, Chairman,
James D. Carnwath,
R.J. Carter

The Sub-Committee reported:

"Given that within every law firm there exists a line of authority between solicitors, it is inevitable that one jointly accused will have at the very least the appearance of advantage over the client represented by the junior member. It is our view that in those circumstances the issue has gone beyond one of potential conflict to one of inherent conflict and ought to be invigilated by the Plan.

Your Sub-Committee is of the view that in the circumstances where two joint accused are represented by two solicitors from the same firm, then the involvement of the Legal Aid Plan should be limited to one certificate allowing a junior member or co-counsel on the case, but with the one solicitor assuming the responsibility of the defence. Thereafter if a conflict between two clients should arise it would then be a judgment by the solicitor in charge of the defence which, of course, would be subject to review by The Law Society as a discipline matter. It is not too unreasonable to anticipate that a conflict between a junior and senior counsel of joint accused in the same firm could be used as a ground for appeal. The permutations and results that would flow from this conflict in the process of plea bargaining would further compound the problem. Moreover, the potential embarrassment to the Plan could not be discounted.

Accordingly, your Sub-Committee recommends an addition to the Legal Aid Regulation under Section 85. The said

Section provides for the employment of counsel. The proposed amendment to read:

> **Section 85(7)**
>
> In the event that jointly accused persons wish to be represented by a single firm of lawyers only one certificate shall issue to one solicitor who shall act for the jointly accused persons and may be subject to an application under this Section."

The Committee recommended that the report of the Sub-Committee to review criminal legal aid certificates be adopted.

**FUNDING – INDEPENDENT COMMUNITY LEGAL SERVICE GROUPS**

Pursuant to Regulation 150, the Attorney General, The Honourable R. Roy McMurtry, Q.C., has designated the sum of $950,000 for funding for the general purposes of this regulation.

A meeting was held of the Clinical Funding Committee on Wednesday, the 5th day of May, 1976, the following being present:

James B. Chadwick, Solicitor, Ottawa, Chairman,
L.K. Ferrier, Solicitor, Toronto,
D.J. McCourt, Deputy Director,
John B. Allen, Special Assistant to the Provincial Director,
A.G. Campbell, Senior Counsel, Policy Development Section, Ministry of the Attorney General

The Committee met with representatives of the thirteen applicant clinics and had discussions as well with representatives of the Federal Department of Justice, the Law Foundation, the Laidlaw Foundation and Metropolitan Toronto. Submissions have also been heard from the coalition known as Action on Legal Aid.

Applications have not been invited (by public announcement or otherwise) from individuals or groups, but the Committee has confined itself to those clinics which had made written application to it for funding.

The summary of recommendations of the Clinical Funding Committee for the fiscal year 1976-77 is as follows:

| *Clinic* | *Per Month* | *The Year* |
|---|---|---|
| | $ | $ |
| Canadian Environmental Law Research Foundation | 2,000 | 24,000 |
| Correctional Law and Legal Assistance Project | nil | nil |
| Injured Workmen's Consultants | 2,200 x 2 )<br>5,790 x 10) | 62,300 |
| Legal Assistance Windsor | 9,476 | 113,712 |
| London Legal Clinic | 6,600 | 79,200 |
| Metro Tenants' Legal Services | 1,792 | 21,504 |
| Neighbourhood Legal Services | 5,333 | 63,996 |
| New Welfare Action Centre | 1,500 | 18,000 |
| Parkdale Community Legal Services | 21,500 | 258,000 |
| People and Law Research Foundation | 5,800 | 69,600 |
| Problem Central | 6,000 | 72,000 |
| Tenant Hot Line | 4,700 x 10 | 47,000 |
| Toronto Community Law School | 3,000 x 10 | 30,000 |
| Young People in Legal Difficulty | nil | nil |
| | | 859,312 |

The terms and conditions of funding to be as follows:

1. The funding hereunder covers only the fiscal year ending March 31st, 1977.
2. You will use the funds solely for the purpose of delivering legal or para-legal services to the public, as defined in the Regulation, and for no other purpose.
3. Any member or members of the Clinical Funding Committee, any employee of The Ontario Legal Aid

Plan or anyone designated by the Director or said Committee may visit your offices and/or obtain such information as they may require concerning your organization or its operations.

4. Should the Committee at any time conclude that you are not complying with the terms hereof, and should it advise me in writing to that effect, I shall revoke this certificate forthwith by letter addressed to you, and no further payments shall thereafter be made.

5. You shall provide the Committee with a statement outlining in detail the application of the funds paid hereunder:

   (a) on or before July 15th and October 15th, 1976, and January 15th and April 15th, 1977, with respect to the previous 3 calendar months, or

   (b) at such more frequent intervals as the Committee may require.

Each such statement shall be certified by your senior officer or officers in the following form:

"I certify that:

(i) we have complied with the terms of the clinical certificate dated May , 1976,

(ii) the expenses outlined above are in accordance with our budget which forms part of such certificate, and

(iii) should we receive funds from any other source we shall forthwith notify the Director accordingly, since I understand such information may result in the Clinical Committee recommending a reduction in the amount of any further payments."

The Committee recommended that the report of the Clinical Funding Committee for clinical funding for the fiscal year commencing April 1st, 1976, be adopted.

## AREA COMMITTEES

### RESIGNATIONS

**Simcoe County**

Alexander M. Forbes, Q.C., Orillia, Chairman, Simcoe County Area Committee.

It was moved, seconded and *carried* that item 3 (Annual Meeting of the Law Society, December 1975 – Legal Aid) be considered by Convocation and reported to the next Annual Meeting and further discussed then, and that the next Annual Meeting take place before the 15th of December, 1976, so as to comply with the Resolution that the matter be considered further within one year from the last Annual Meeting.

**THE REPORT AS AMENDED WAS ADOPTED**

. . . . . .

**CONVOCATION ADJOURNED FOR LUNCHEON AT 12:50 P.M.**

. . . . . .

**CONVOCATION RESUMED AT 2:40 P.M., A QUORUM BEING PRESENT**

. . . . . .

## LIBRARIES AND REPORTING COMMITTEE–Mr. Seagram

Mr. C.J. Seagram, Chairman, presented the Report of the Libraries and Reporting Committee of its meeting on Thursday, 13th May, 1976.

The following members were present: Messrs. Seagram (Chairman), Farquharson, Salhany, Shibley, Strauss and Mrs. Tait, and Miss A.R. McCormick.

### BARRISTERS' LIBRARY – 145 QUEEN STREET WEST

The Committee recommended to the Finance Committee that the Barristers' Library on the fourth floor of 145 Queen

Street West be moved to the basement of the same building with the cost of the move to be paid by the Provincial Government except for the relocation of the telephones and Mr. Heeney's fees.

The robing rooms for men and women barristers will also be moved from the fourth floor to the basement with the cost of the move to be paid by the Provincial Government except for Mr. Heeney's fees. This move will take place after July 1, 1976.

## COUNTY LAW LIBRARIES

### ANNUAL GRANTS

The Associations listed below sent in their Annual Returns for the year 1975. The amounts of grants under the Regulations in 1976 and 1975 are as follows:

| | *1976* | | *1975* |
|---|---|---|---|
| Algoma | $2,000.00 | | $2,000.00 |
| Hastings | 2,000.00 | | 2,000.00 |
| Lambton | 2,000.00 | | 2,000.00 |
| Leeds & Grenville | 1,180.00 | | 1,145.00 |
| Lennox & Addington | 750.00 | 750 | |
| | | – 10% 75 | 675.00 |
| Norfolk | 1,181.67 | | 1,062.83 |
| Temiskaming | 750.0 | | 750.00 |
| | 2,000.00 | | 2,000.00 |

*Approved,* subject to the approval of the Finance Committee.

## REPORTING

### CANADA LAW BOOK LIMITED – TENDER

The Committee recommended that the Chairman of the Libraries and Reporting Committee appoint a Sub-Committee with power to add outside persons or Benchers to deal with all of the problems concerning the reporting of reasons for judgment and in particular to be a liaison committee to meet Canada Law Book Limited concerning its contract to publish the Ontario Reports.

The Committee recommended that the Chairman in consultation with the Finance Administrator and Clarkson Gordon

and Company, if necessary, should make a recommendation to the next meeting of the Committee concerning whether the tender of Canada Law Book Limited for the next 12 months to publish the O.R.s should be accepted by the Society.

**THE REPORT WAS ADOPTED**

. . . . . .

## PROFESSIONAL CONDUCT COMMITTEE–Mr. Cooper

Mr. B.H. Kellock, Vice-Chairman, presented the Report of the Professional Conduct Committee of its meeting on Thursday, 13th May, 1976.

The following members were present: Messrs. Kellock (Vice-Chairman acting as Chairman), Cass, Farquharson, Furlong, Mrs. Legge, Messrs. Lochead, Ogilvie, Shibley, Strauss and Mrs. Tait.

### SUB-COMMITTEE TO CONSIDER FLAT FEE CHARGING

The Committee received the following report of the above named Sub-Committee and recommended that it be adopted.

"At the meeting of the Professional Conduct Committee held on February 12th, 1976, your Sub-Committee composed of Messrs. Chappell (Chairman), Strauss and Mrs. Legge was appointed to consider the propriety of lawyers holding themselves out to charge specific flat fees for certain types of legal work without any real knowledge of what might be involved.

We were told that lawyers in the Toronto area were holding themselves out as charging flat fees on all types of transactions, whether a small or large amount of money was involved and whether it was a real estate purchase or sale. We were also advised that these same lawyers were quoting flat or fixed fees for real estate transactions in advance to agents in the event that the transaction should be referred to them.

We considered the Canadian Bar Association's Code of Professional Conduct which was adopted by the Society in principle in March of 1975 part of which reads as follows:

> 'The lawyer shall not offer generally to provide legal services at reduced rates for the sole purpose of attracting

clients. However, he may properly assist in making legal services available by charging a reduced or no fee at all to a person who would have difficulty in paying the fee usually charged for such service or by accepting a salary, flat fee or retainer from or under a scheme established by Government or a Governing Body or a community service group in order to provide legal services to a defined or identifiable section of the public'.

We considered also our own Ruling 3, part of which reads as follows:

'(a) to hold himself out or permit himself to be held out as being prepared to provide professional services at fees that are less than reasonable and appropriate in the circumstances in order to obtain professional work'.

Your Sub-Committee is of the opinion that it is not only improper conduct but it is contrary to the best interests of the public for a lawyer to entice legal work to his office by quoting fees to third parties and sometimes even directly to potential clients without first discussing with the potential client the extent of the services to be performed and the legal implications which might be involved.

If the fee should prove to be too low for the services that the client expects and reasonably requires to be performed the lawyer is tempted and sometimes yields to providing inferior work with the result that the client suffers.

Work of an inferior quality could result in claims against the solicitor and the Society's Errors and Omissions policy. It could involve the clients (the public) in litigation, would increase insurance premiums and the over-all cost of practising law and thus the costs of legal services in Ontario.

Both the public and the profession must be protected from inferior legal work.

Your Sub-Committee recommends that its observations be brought to the attention of the profession."

Your Committee considered the following situation:

A lawyer was acting for a husband and wife, who were involved in a motor vehicle accident. The claim of the wife, amongst other things, was for loss of income. At the time of the accident she was employed as a cleaning lady and apparently worked for four different women, one day per week, for a total of four days.

His client alleged that she was unable to work for a period of some ten months after the accident, and the medical report of her doctor substantiated this.

He wrote to the individual employers to obtain statements from them as to her rate of pay and time period for which she was unable to work. He did not receive replies from these women, but finally received a telephone call from one, after a couple of months. This woman advised the lawyer that his client never ceased working for her and if she did not work after the accident, it was only for a matter of a week or so. To confirm this he telephoned another employer, who provided the lawyer with the same information.

In view of his client's instructions and the information he obtained, the lawyer felt he could no longer act for her and advised her to seek the services of another lawyer.

The lawyer wrote to the Society because he is concerned about what he should say to the new lawyer if the latter should contact him to enquire as to the reason for the lawyer ceasing to act for this client. Your Committee instructed the Secretary to point out that communications between the lawyer and the client are privileged. Accordingly, if the privilege is not waived by the client the lawyer can reveal nothing to the new solicitor. If the client waives this privilege it should be made clear to her that the disclosure to the new solicitor must be complete.

Your Committee considered a request from Mrs. Haig, a solicitor with the Ministry of Consumer and Commercial Relations, Companies Division, for comment on a proposed incorporation. The company to be known as Feather Management Limited would have the following objects:

*6. THE OBJECTS FOR WHICH THE CORPORATION IS INCORPORATED ARE*

(a) To carry on the business of management consultants and industrial consultants and advisors and consultants in the operation of all kinds of businesses, operations, undertakings and in particular the operation and management of law practices, and particularly without limiting the generality of the foregoing to devise and install for all manner of businesses, industries and law practices and other enterprises systems with respect to the said practice, sales and administrative expenses, budgets, accounting and cost methods, clerical, factory, labour, overhead costs, inventories and other cost elements;

(b) To devise and prepare plans and schedules for production, distribution and sales, handling of clients and methods of work and to do all such things and to perform and supply all services as are commonly done, performed and supplied by industrial and management experts;

(c) 1. To furnish advice and services with respect to the organization, reorganization and management of businesses, law practices, and to receive in payment therefore fees, royalties, commissions, either in cash, securities or other properties.

2. To organize, reorganize and develop business enterprises, law practices.

3. To import, export, manufacture, buy, sell and deal in all kinds of goods, wares and merchandise.

4. To act and carry on business as brokers, agents, representatives, commission agents for Canadian, foreign commercial houses and other persons, forms, or corporations, for the buying and selling of merchantable commodities of every kind and description and to make and enter into any and all kinds of lawful contracts with respect thereof.

(d) To purchase or otherwise acquire and hold real and personal property, rights and in particular lands, buildings, hereditaments, business or industrial concerns and undertakings, mortgages, charges, contracts, concessions, franchises, annuities, patents, licences, securities, policies, book debts and any interest in real or personal property and any claims against such property or against any persons, firm, or corporation and privileges and choses in action of all kinds.

Mrs. Haig indicated that she had already requested that reference in the object (a) to accounting be deleted. The Committee instructed the Secretary to inform Mrs. Haig that it felt the references to the operation of law practices in clause (a) and handling of clients in clause (b) were objectionable.

In addition to the foregoing items the Committee also considered eighteen others, issuing appropriate instructions in each case.

**THE REPORT WAS ADOPTED**

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## UNAUTHORIZED PRACTICE COMMITTEE–Mr. Fennell

Mr. J.G.M. White, Vice-Chairman, presented the Report of the Unauthorized Practice Committee of its meeting on Thursday, 13th May, 1976.

The following members were present: Messrs. Fennell (Chairman), Cass, Furlong, Mrs. Legge, Messrs. Ogilvie, Pallett, Strauss and White.

The Committee considered a complaint from a solicitor concerning a Notary Public charging excessive fees. The Secretary was instructed to write to the Attorney General and the Department of Consumer & Commercial Relations concerning this matter.

The Committee considered complaints from two solicitors concerning a divorce kit agency and an insurance agent who

appeared to be engaged in unauthorized practice. The Secretary was instructed to retain counsel in both cases to investigate to see whether there was sufficient evidence for a prosecution under Section 50 of The Law Society Act.

The Committee considered a complaint from a solicitor concerning a Commissioner for Oaths who was drafting deeds. The Secretary was instructed to advise that there was insufficient evidence for a prosecution under Section 50 of The Law Society Act.

The Committee considered a letter from a solicitor concerning a Commissioner doing conveyancing work. The Secretary was instructed to write to the solicitor in order to obtain more evidence.

**THE REPORT WAS ADOPTED**

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## SPECIAL COMMITTEE ON MUNIMENTS AND MEMORABILIA—Mr. Sedgwick

Mrs. L.L. Legge presented the Report of the Special Committee on Muniments and Memorabilia of its meeting on Thursday, 13th May, 1976.

The following members were present: Mr. W.G. Gray (Acting Chairman), Mrs. L. Legge and Mr. Honsberger (Curator).

### GUIDE TO DISPLAY

A mock-up of a guide to the pictures and paintings on display in the Muniments and Memorabilia Room was before the Committee together with an estimate in the amount of $712.00 for the printing of 1,000 copies. The Committee recommended, subject to the approval of Convocation, that 1,000 guides be printed.

### PRESENTATIONS

John E. Clement, Q.C. has presented a photograph of the graduating class of 1901.

Mr. Justice Arthur Kelly has presented an Ashley Crippen photograph of the late F.M. Morson. Montye Morson was the last judge to be appointed by Sir John A. Macdonald.

Mrs. Shirley Lieberman has presented the Society with various class pictures and certificates belonging to her late husband, Mr. Reuben Lieberman, Q.C.

**THE REPORT WAS ADOPTED**

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## ANTI-INFLATION PROGRAM – PROFESSIONAL FIRMS

The Treasurer read a letter dated 3rd May, 1976, from Mr. J.D. Ground to the Secretary with respect to the Anti-Inflation Program as it relates to professional firms.

It was moved, seconded and *carried* that the Anti-Inflation Board material form the subject of an Occasional Report.

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**CONVOCATION ROSE AT 3:30 P.M.**

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Read in Convocation and confirmed 18th June, 1976.

W. GIBSON GRAY
Treasurer

THE LAW SOCIETY OF UPPER CANADA

# Minutes of Convocation

Volume I Number 2

Beginning with the Minutes of the January, 1977 Convocation, the Minutes in this new form will be sent only to those who have indicated that they wish to receive them.

Members wishing to receive the Minutes of Convocation are asked to complete the form below and send it to the Society.

---

The Secretary,
The Law Society of Upper Canada,
Osgoode Hall,
Toronto, Ontario
M5H 2N6

I would like to receive the Minutes of Convocation at the address below:

Name .....

Address .....

.....

.....

# MINUTES OF CONVOCATION
## (ABRIDGED)

Friday, 18th June, 1976
10:00 a.m.

**PRESENT:**

The Treasurer (Mr. W. Gibson Gray) and Messrs. Bowlby, Brulé, Bynoe, Carnwath, Carrier, Carter, Carthy, Cartwright, Cass, Chadwick, Chappell, Common, Cooper, Farquharson, Finlayson, Furlong, Goodman, R.J.S. Gray, Ground, Henderson, Humphrey, Kellock, Mrs. Legge, Messrs. Linden, Lochead, Montgomery (after his election), O'Brien, Ogilvie, Pepper, Rogers, Seagram, Sheard, Shibley, Slemin, Strauss, Mrs. Sutherland, Messrs. Tobias, Wallace, Williston and Willoughby.

. . . . . .

**MINUTES**

The Minutes of Convocation of 21st May, 1976 were read and confirmed.

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**ELECTION OF BENCHER**

The Treasurer having become a Bencher ex officio upon his election, a vacancy existed in Convocation.

It was moved, seconded and *carried* that *Mr. Robert S. Montgomery* of Toronto be elected a Bencher to fill the vacancy in Convocation.

. . . . . .

**APPOINTMENT OF AUDITOR**

It was moved, seconded, and *carried* that Messrs. *Clarkson, Gordon & Company* be appointed Auditors of the Society for the period of one year from 1st July, 1976.

. . . . . .

**CANADIAN BAR ASSOCIATION –**
**APPOINTMENT OF REPRESENTATIVES**

It was moved, seconded, and *carried* that the *Treasurer* and *Mr. R.W. Cass* be appointed the Society's representatives on the Council of the Canadian Bar Association to take office at the end of the Annual Meeting of the Association in 1976.

. . . . . .

**FEDERATION OF LAW SOCIETIES OF CANADA –**
**APPOINTMENT OF REPRESENTATIVES**

It was moved, seconded, and *carried* that the *Treasurer* and *Mr. G.F. Henderson* be appointed the Society's representatives to the Federation of Law Societies of Canada.

. . . . . .

**RULES COMMITTEE, S.C.O. –**
**APPOINTMENT OF REPRESENTATIVE**

It was moved, seconded, and *carried* that *Mr. W.A. Derry Millar* be appointed one of the Society's representatives on the Rules Committee, S.C.O., in place of Mr. J.J. Carthy for the balance of the three-year term which commenced 1st July, 1974.

. . . . . .

**REMEMBRANCE DAY SERVICE – TIME AND PLACE**

It was moved, seconded, and *carried* that the Society's Remembrance Day Service be held on Thursday, 11th November, 1976, at 12:30 p.m., at the Society's First World War Memorial in the Great Library.

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**MEETING OF THE TREASURER AND THE CHAIRMEN AND VICE-CHAIRMEN OF STANDING COMMITTEES – THE TREASURER**

The Treasurer presented the Report of the Meeting of the Treasurer and the Chairmen and Vice-Chairmen of the Standing Committees.

A meeting of the Treasurer and Chairmen and Vice-Chairmen of the Standing Committees as presently constituted was held on Thursday, 10th June, 1976, the following being present: The Treasurer (Chairman) and Messrs. Bynoe, Carnwath, Cartwright, Cooper, Fennell, Ground, Mrs. Legge, Messrs. Lochead, Seagram, White and Willoughby.

They recommend that the constitution of the standing committees for the ensuing year be as follows:

1. FINANCE: Brulé, Farquharson, Fennell, Ground, Henderson, O'Brien, Ogilvie, Pallett, Pepper, Sheard, Shepherd, Wilson.
2. LEGAL EDUCATION: Brulé, Carthy, Cartwright, Finlayson, R.J.S. Gray, Ground, Henderson, Kellock, Montgomery (after election), Rogers, Salhany, Shepherd, Shibley, Tait, Thom.
3. ADMISSIONS: Cass, Finlayson, R.J.S. Gray, Ground, Henderson, Legge, Pallett, Pepper, Sheard, Shepherd, Sutherland, White.

4. DISCIPLINE: All members of Convocation.

   – POLICY SECTION: Bynoe, Carnwath, Carrier, Cartwright, Cass, Cooper, Evans, Finlayson, Furlong, Humphrey, Kellock, Lochead, Sutherland.

5. PROFESSIONAL CONDUCT: Bowlby, Brulé, Bynoe, Carnwath, Carrier, Chappell, Cooper, Evans, Goodman, Kellock, Lochead, Strauss, Sutherland, Zahoruk.

6. LIBRARIES AND REPORTING: Chappell, Farquharson, Goodman, Rogers, Salhany, Seagram, Shibley, Strauss, Tait, Willoughby.

7. UNAUTHORIZED PRACTICE: Carter, Cass, Chadwick, Fennell, Furlong, Legge, Pallett, Seagram, Strauss, Tobias, White.

8. PUBLIC RELATIONS: Bowlby, Linden, Lochead, Tait, Tobias, Wallace, Williston, Willoughby.

9. LEGISLATION AND RULES: Cartwright, Common, Farquharson, Furlong, Legge, Shibley, Wilson, Zahoruk.

10. LEGAL AID: Bowlby, Carnwath, Carter, Chadwick, Finlayson, Goodman, Humphrey, Levinter, Linden, Montgomery (after election), Ogilvie, Salhany, Wallace.

**THE REPORT WAS ADOPTED**

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Convocation adjourned to allow the Standing Committees to meet for the election of Chairmen and Vice-Chairmen, and resumed following the election.

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**ELECTION OF CHAIRMEN AND VICE–CHAIRMEN**

The reports of the Standing Committees as to the election of Chairmen and Vice-Chairmen were adopted as follows:

1. FINANCE: Chairman, A.E. Shepherd; Vice-Chairman, J.C. Pallett.
2. LEGAL EDUCATION: Chairman, G.D. Finlayson; Vice-Chairmen, J.D. Ground, G.F. Henderson.
3. ADMISSIONS: Chairman, P.B.C. Pepper; Vice-Chairman, Laura L. Legge.
4. DISCIPLINE: Chairman, G.H. Lochead; Vice-Chairmen, B.C. Bynoe, J.D. Carnwath.
5. PROFESSIONAL CONDUCT: Chairman, A.M. Cooper; Vice-Chairman, B.H. Kellock.
6. LIBRARIES AND REPORTING: Chairman, C.J. Seagram; Vice-Chairman, N. MacL. Rogers.
7. UNAUTHORIZED PRACTICE: Chairman, J.G.M. White; Vice-Chairman, P.B. Tobias.
8. PUBLIC RELATIONS: Chairman, G.E. Wallace; Vice-Chairman, L.S. Willoughby.
9. LEGISLATION AND RULES: Chairman, R.I. Cartwright; Vice-Chairman, P.G. Furlong.
10. LEGAL AID: Chairman, J.D. Bowlby; Vice-Chairmen, J.B. Chadwick, A.M. Linden.

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**APPOINTMENT OF SPECIAL COMMITTEE ON LAND REGISTRY SYSTEM**

The Treasurer informed Convocation that he had reconstituted the Special Committee on Land Registry System and had appointed the following: Messrs. *Seagram* (Chairman), *Strauss* and *Tobias*. Mr. Seagram will continue as the Society's representative on the *User Committee* (a Liaison Committee of the profession with the Ministry of Consumer & Commercial Relations).

. . . . . .

**APPOINTMENT OF SPECIAL COMMITTEE ON REMEMBRANCE DAY SERVICE**

The Treasurer named Messrs. *Sheard* and *Goodman* to constitute the Special Committee respecting the observance of Remembrance Day.

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**APPOINTMENTS TO SPECIAL COMMITTEES**

*(i) Special Committee on Errors and Omissions Insurance*

The Treasurer informed Convocation that he had appointed *Mr. O'Brien* to the Special Committee on Errors and Omissions so that the Committee consisted of the following: Messrs. Carthy (Chairman), Kellock, Mrs. Legge, Messrs. Levinter, Linden, O'Brien, Shibley and Wallace.

*(ii) Special Committee (of the Society) on Facilities of the Great Library*

The Treasurer announced that he had added *Mr. Chappell* to this Committee so that the Committee consisted of: Messrs. Rogers (Chairman), Carthy, Chappell, Farquharson and Shepherd.

*(iii) Mediation Committee*

The Treasurer announced the appointment of *Mr. Thom* to the Mediation Committee so that the Committee consisted of: Messrs. Carson, Common, Levinter, McCulloch, O'Brien, Robinette, Sedgwick, Slemin, Thom and Wilson.

*(iv) Special Committee on Muniments and Memorabilia*

The Treasurer announced that he had added *Mr. Pepper* to this Committee so that the Committee consisted of: Mr. Sedgwick (Chairman), Mrs. Legge, Messrs. Pepper, Shepherd and Weir.

*(v) Special Committee on the Osgoode Hall Fence*

The Treasurer announced that he had added *Mr. Pepper* to this Committee so that the Committee consisted of: Messrs. O'Brien (Chairman), Fennell, Finlayson, Pepper, Robinette and Shepherd.

*(vi) Special Committee (of the Society) on Tariffs*

The Treasurer informed Convocation that he had named *Mr. Willoughby* as a member of this Committee to replace Mr. R.H. Carley so that the Society's representation on this Committee will be as follows: Messrs. Wallace (Chairman), Carrier, Evans, Henderson and Willoughby. The other members of the Committee are the Presidents or their representatives of the County and District Law Associations of York, Carleton and Sudbury.

*(vii) Special Committee of the Canadian Bar Association, Ontario Branch, to consider and plan course to be given in Community Colleges for Legal Assistants*

The Treasurer advised Convocation that following a request from the Canadian Bar Association, Ontario Branch, he had named *Mr. Rogers* to be the Society's representative on this Special Committee of the Ontario Branch.

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**SPECIAL COMMITTEE ON RULING 35 OF THE PROFESSIONAL CONDUCT HANDBOOK**

The Report of the Special Committee on Ruling 35 dated 8th January, 1976 was not reached at Convocation on 16th January, 1976 and was subsequently stood over by Convocation in February and March. At the April Convocation, Convocation deferred consideration of the Report to the June Convocation at the request of the Committee's Chairman, Mr. Pepper.

It was moved, seconded and *carried* that this matter be put over to a later Convocation.

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## ADMISSIONS COMMITTEE–Mr. Pepper

Mr. P.B.C. Pepper, Chairman, presented the Report of the Admissions Committee of its meeting on Thursday, 10th June, 1976.

The following members were present: Mrs. L.L. Legge, Vice-Chairman in the Chair, and Messrs. Carter, Cass, Finlayson, R.J. Gray, White and Mrs. Sutherland.

### CALL TO THE BAR AND CERTIFICATE OF FITNESS

#### BAR ADMISSION COURSE

The following candidates having successfully completed the Seventeenth Bar Admission Course, filed the necessary documents and paid the required fee of $210.00 applied for Call to the Bar and to be granted Certificates of Fitness:

John Richard Lisowski

Haruji Suga

#### TRANSFER FROM ANOTHER PROVINCE

The following candidates, having passed the examinations set by the Examining Board, filed the necessary documents and paid the required fee of $411.00 applied for Call to the Bar and to be granted Certificates of Fitness:

William Samuel Hechter, Manitoba
Brian Edward Joseph McAsey, British Columbia

#### CALL TO THE BAR FOR OCCASIONAL APPEARANCE

At its meeting on 13th May, 1976 the Admissions Committee recommended that the following be allowed to proceed under Regulation 10 concerning "Occasional Appearances in

Ontario of Lawyers from other Provinces" and that upon giving the necessary undertakings he be called to the Bar and admitted as a solicitor.

Alexander John Campbell, Province of Quebec

*Approved*

**DIRECT TRANSFERS**

The Committee considered and approved three applications to transfer to practice in Ontario by lawyers from other common law provinces of Canada.

**FULL-TIME MEMBER OF THE FACULTY OF APPROVED LAW SCHOOL**

The following member of an approved law faculty asked to be called to the Bar and admitted as a solicitor without examination under Regulation 9 respecting full-time members of approved Law Faculties in Ontario upon payment of a fee of $200.00. A letter confirming his eligibility has been received from the dean of the relevant law school.

| | |
|---|---|
| Barry J. Reiter | B.A. York University, 1969;<br>LL.B. Osgoode Hall Law School, 1972. |

*Approved*

**EXTERNAL EXAMINATIONS**

Two candidates were approved by the Committee to proceed under former Regulation 5. They sat the required examination, one in Hong Kong, the other in England. Both passed. The Committee approved the report.

**THE REPORT WAS ADOPTED**

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**CALL TO THE BAR**

The following candidates were presented to the Treasurer and Convocation, were called to the Bar and the degree of Barrister-at-law was conferred upon each of them by the Treasurer:

Haruji Suga
John Richard Lisowski
Brian Edward Joseph McAsey
William Samuel Hechter
Alexander John Campbell

. . . . . .

**SPECIAL COMMITTEE ON THE INQUIRY UNDER SECTION 35 OF THE LAW SOCIETY ACT RESPECTING GLADYS D. ROY**

Mr. G.H. Lochead, Chairman, placed the matter before Convocation.

The reporter was sworn.

The solicitor attended with her counsel, Mr. John Ryan. The Society was represented by Mr. Claude Thomson.

The Treasurer referred to the Report of the Special Committee dated 9th April, 1976, which had not been read or considered by Convocation. He advised Convocation that a Notice of Application for Judicial Review was served upon the Society that morning.

Mr. Ryan on behalf of the solicitor requested an adjournment pending the disposition of the application before the Divisional Court. Mr. Thomson made submissions. The solicitor, both counsel and the reporter withdrew.

It was moved, seconded and *carried* that the matter proceed.

The solicitor, counsel and the reporter returned.

The solicitor and counsel were advised that the adjournment would not be granted on the grounds upon which the request was made.

The solicitor, counsel and the reporter retired.

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Convocation interrupted its consideration of the *Roy* matter to consider reports of the Discipline Committee and the Legal Aid Committee.

. . . . . .

## DISCIPLINE COMMITTEE–Mr. Lochead

### COMPENSATION FUND SUMMARY

Mr. B.C. Bynoe, Vice-Chairman, presented the summary of the Compensation Fund for the period ended 31st May, 1976.

### COMPENSATION FUND

**For the Period ended 1st July, 1975 to 31st May, 1976**
**(11 months)**

| | |
|---|---|
| TOTAL RECEIPTS | $ 269,020.63 |
| TOTAL DISBURSEMENTS | $ 184,802.07 |
| EXCESS OF RECEIPTS OVER DISBURSEMENTS | $ 84,218.56 |
| BALANCE OF FUND 1st July 1975 | $1,414,187.62 |
| BALANCE OF FUND 31st May 1976 | $1,498,406.18 |

### RESUME OF GROSS CLAIMS OUTSTANDING

| | |
|---|---|
| CLAIMS RECEIVED and in the course of being processed as of 31st May 1976 | $2,444,043.89 |
| TOTAL PAID to 31st May 1976 from the commencement of the Fund on account of 938 claims of 99 former solicitors | $3,519,858.92 |

**THE SUMMARY WAS RECEIVED**

. . . . . .

## LEGAL AID COMMITTEE–Mr. Bowlby

Mr. J.D. Bowlby, Chairman, presented the Report of the Legal Aid Committee of its meeting on Wednesday, 9th June, 1976.

The following members were present: John D. Bowlby, Q.C., Chairman, and Messrs. Barnes, Carnwath, Carter, Chadwick, Fairbairn, Ferrier, Finlayson, Mrs. Fleming, Messrs. Gilchrist, Hamer, Harris, Humphrey, Mrs. Jarmain, Father Lacelle, Messrs. Lamb, Shaffer and Mrs. Smyth.

Also in attendance at the meeting were Bernard Shier, Solicitor, Toronto, Gordon D. Buckle, Solicitor, Hamilton and Peter C. Heath, Solicitor, Gravenhurst.

**REPORT OF THE DEPUTY DIRECTOR**

*(a) Finance*

| | Budget 1976–77 $,000 | Actual 1975–76 $,000 |
|---|---|---|
| **Source of Funds** | | |
| Province of Ontario | 18,421.5 | 18,225.4 |
| Law Foundation | 3,000.0 | 4,938.0 |
| Client Contributions and Costs | 2,000.0 | 1,897.7 |
| Miscellaneous income | 63.0 | 57.7 |
| | 23,484.5 | 25,118.8 |
| **Application of Funds** | | |
| Solicitors' Legal Aid Accounts | 15,095.5 | 17,931.3 |
| Duty Counsel payments | 2,750.0 | 2,489.9 |
| Community Legal Service Groups | 950.0 | 295.6 |
| Student Legal Aid Societies | 126.0 | 126.0 |
| Area Office costs | 2,701.7 | 2,502.1 |
| Administrative expenses | 1,861.3 | 1,762.0 |
| Total expenditure | 23,484.5 | 25,106.9 |

In the month of April, 1976, the Fund received $2,100,000 from the Treasurer of Ontario plus a further $169,000 from clients and through miscellaneous income. Adding these figures to the opening balance in the Fund at the beginning of the fiscal year, $31,000, gives a total of $2,300,000 available for distribution during the month of April.

The Fund paid out $1,375,000 in legal fees and disbursements, $36,000 to Community Legal Service Groups and $312,000 in Area Office and Provincial Office administrative

costs. Payments from the Fund, therefore, totalled $1,723,000, leaving a balance in the Fund at April 30, 1976, of $577,000.

At April 30, 1976, there was a total of 10,489 solicitors' accounts received but not paid. Of these 5,540 accounts were fully processed by the Legal Accounts Department and ready to be paid.

*(b) Statistics*

During the month of April, Legal Aid activity as reported by the Area Offices was as follows:

| | |
|---|---|
| Informal applicants | 7,867 |
| Applications for certificates | 8,256 |
| Certificates issued | 6,364 |
| Persons assisted by Duty Counsel | 11,591 |

The activity is approximately 17% less than that which we expected and budgeted for. This is at least partly explained by the fact that the Easter vacation fell during the month of April and also because three large areas failed to report the last week's activity in time to be incorporated in the month's figures.

*(c) Write-offs*

George E. Wallace, Vice-Chairman, has approved the writing-off of the following total of amounts due to the Legal Aid Fund: $22,587.61.

**REPORT OF THE LEGAL ACCOUNTS OFFICER**

The Legal Accounts Department has continued to maintain a current position during the month of May and it can be assumed that the majority of accounts are being settled within 2 to 3 weeks of receipt.

The Legal Accounts Officer has been advised by the Controller that all Notices of Settlement delivered to him up to and including April 15, 1976, have been paid.

After April 15, 1976, 8,608 accounts have been forwarded to the Controller and are yet to be paid. Adding to this figure the accounts that are on hand in the Legal Accounts Depart-

ment shows a total of 13,515 accounts outstanding at the end of May. Since the beginning of March we have received an average of 1,342 accounts per week; therefore, there are approximately 10 weeks of accounts unpaid at the end of May, 1976.

The number of accounts received in May, 1976, represents an increase of 12 per cent over the number received in May, 1975.

*(a) Activity*

| | *March* | *April* | *May* |
|---|---|---|---|
| Accounts on hand at beginning of the month | 5657 | 5087 | 4974 |
| Accounts received during month | 6214 | 5567 | 5669 |
| Total accounts to be processed | 11871 | 10654 | 10643 |
| Less A.O. Files cancelled during month | 380 | 43 | 39 |
| Less Accounts processed during month | 6404 | 5637 | 5697 |
| Balance on hand at month end | 5087 | 4974 | 4907 |

The above figures do not reflect accounts for Interim Disbursements and Supplementary Payments.

*(b) Reviews*

| | *March* | *April* | *May* |
|---|---|---|---|
| Reviews on hand | 222 | 114 | 124 |
| Reviews received in | 75 | 123 | 89 |
| | 297 | 237 | 213 |
| Settlements reviewed | 142 | 127 | 80 |
| Settlements awaiting review | 137 | 91 | 114 |
| Settlements awaiting further information | 18 | 19 | 19 |
| | 297 | 237 | 213 |

*(c) Appeals*

| | | | |
|---|---|---|---|
| Appeals to Taxing Master received during May | - | - | 1 |
| Appeals heard by Taxing Master | - | - | 1 |
| Appeals pending at the end of the month | - | 1 | 2 |
| Appeals abandoned | - | - | - |

**PAYMENT OF SOLICITORS' ACCOUNTS**

At the June 1976 meeting the following motion was approved by the Committee:

> *RESOLVED THAT:* The Controller be directed to pay solicitors' accounts rendered to The Ontario Legal Aid Plan, and settled by the Legal Accounts Officer, forthwith from the moneys appropriated by the Legislature for the purposes of the Act, as set out in Section 7(1)
>
> *BE IT FURTHER RESOLVED THAT:* In the event there are insufficient funds on hand for the payment of such settled accounts forthwith, the Controller requisition sufficient funds for the payment of such settled accounts, pursuant to Section 7(2) of the Act.

**STUDENT REPRESENTATIVE – LEGAL AID COMMITTEE**

The Executives of the Student Legal Aid Societies of Ontario have unanimously recommended the appointment of *Tom Hamer,* Faculty of Law, University of Western Ontario, to replace Mr. David Leitch as a Student Representative on the Legal Aid Committee.

The Committee approved the appointment.

**YORK COUNTY OFFICE PREMISES**

The Director received a copy of correspondence addressed to George E. Wallace, from W.R. Donkin, Area Director, York County, wherein Mr. Donkin proposed that the York County Legal Aid Office be moved from 73 Richmond Street West to 25 Adelaide Street West.

The cost of the move and alterations are within the legal aid budget allotted the York County Office for 1976–77.

After a review of all the facts and hearing from Mr. Donkin, the Committee recommended that the following Resolution be adopted:

> RESOLVED that this Committee delegate a Sub-Committee composed of Mr. George E. Wallace, Mr. Andrew Lawson, and one or more solicitors from Toronto, to be selected by Mr. Lawson, to consider, if advisable, a new lease for premises for the York Office at 25 Adelaide Street West, and to set the terms of an agreement to lease and a lease, with power to advise the proper officers of the Law Society on behalf of this Committee to execute documents in connection therewith.

## AREA COMMITTEES

Section 4(1) of the Legal Aid Act provides that the Law Society may appoint a Legal Aid Committee for an area.

The Committee recommended the following be appointed a member of the Area Committee in:

**Rainy River District**

L.A. Eustace, Solicitor, Fort Frances.

**Waterloo County**

D.S. Whitfield, Solicitor, Kitchener,
D.C. Downie, Solicitor, Kitchener,
W.R. McCormick, Solicitor, Kitchener.

**Simcoe County**

John M. Gammell, Solicitor, Midland, Chairman,
Lionel P. Dion, Penetanguishene, Vice-Chairman.

**Nipissing District**

Mrs. Ellen J. Vezina, North Bay,
J.S. Stone, North Bay,
Donald C. Wallace, Solicitor, North Bay.

**RESIGNATIONS**

**Nipissing District**

Michael G. Bolan, Solicitor, North Bay.

**Waterloo County**

S.R. Cameron, Solicitor, Kitchener,
J.R. Guy, Solicitor, Kitchener,
J.P. Giffen, Solicitor, Kitchener.

**Wellington County**

David H. Jack, Solicitor, Fergus.

**THE REPORT WAS ADOPTED**

. . . . . .

**SPECIAL COMMITTEE ON THE INQUIRY UNDER SECTION 35 OF THE LAW SOCIETY ACT RESPECTING GLADYS D. ROY (Continued)**

Convocation took time to read the Report of the Special Committee dated 9th April, 1976, in which the Special Committee, on the basis of medical and other evidence, unanimously found the solicitor to be incapable of practising law by reason of mental illness.

. . . . . .

**CONVOCATION ADJOURNED FOR LUNCHEON AT 12:30 P.M.**

. . . . . .

The Treasurer and Benchers had as their special guests for luncheon The Honourable Margaret Scrivener, Minister of Government Services, Ontario, Dean Harry W. Arthurs of Osgoode Hall Law School of York University and Dean Martin L. Friedland of the Faculty of Law, University of Toronto.

. . . . . .

**CONVOCATION RESUMED AT 2:20 P.M.**

. . . . . .

**PRESENT:**

The Treasurer and Messrs. Bowlby, Brulé, Carnwath, Carter, Carthy, Cartwright, Cass, Chadwick, Chappell, Furlong, R.J.S. Gray, Ground, Kellock, Linden, Montgomery, O'Brien, Ogilvie, Pepper, Rogers, Seagram, Shibley, Mrs. Sutherland, Messrs. Wallace and Willoughby.

. . . . . .

**SPECIAL COMMITTEE ON PRISONERS' RIGHTS**

Mr. B.C. Bynoe, a member of the Special Committee on Prisoners' Rights, advised Convocation that the Special Committee's Report is not being presented today because one of the matters dealt with is the subject of a case currently being considered by the Federal Court of Canada and consequently the Report will await the outcome of that case.

. . . . . .

**SPECIAL COMMITTEE ON THE INQUIRY UNDER SECTION 35 OF THE LAW SOCIETY ACT RESPECTING GLADYS D. ROY (Continued)**

Convocation resumed its consideration of the *Roy* matter.

The solicitor, counsel and the reporter returned.

The solicitor and counsel were advised that the members of Convocation had read the Report.

Mr. Ryan made submissions on behalf of the solicitor who made further submissions on her own behalf. Mr. Thomson made submissions on behalf of the Society and Mr. Ryan made submissions in reply.

The solicitor, counsel and the reporter withdrew.

It was moved, seconded and *carried* that the rights and privileges of the solicitor as a member of the Society be

suspended by Order of Convocation pursuant to Section 35 of The Law Society Act and remain suspended until she satisfy Convocation that she is capable of practising law.

The solicitor, counsel and the reporter returned.

The solicitor and counsel were advised of the action taken by Convocation.

. . . . . .

## DISCIPLINE COMMITTEE (Continued)

### Re: DENNIS DUSHAN KROUL, Toronto

Mr. B.C. Bynoe, Vice-Chairman, placed the matter before Convocation.

The reporter was sworn.

The solicitor attended with his counsel, Mr. Ian G. Scott. The Society was represented by Mr. Michael A. Wadsworth.

Mr. Scott accepted service of the Decision of the Discipline Committee and stated that he was prepared to proceed.

The Secretary read the Decision of the Discipline Committee dated 8th June, 1976, wherein the solicitor was found guilty of professional misconduct, in that without having a power of attorney he had signed a name other than his own to a mortgage and deed of land, sworn false affidavits of execution in that connection and made a secret profit of $2,500.

Mr. Bynoe withdrew from Convocation, took no part in the discussion and did not vote. Mr. Carnwath, Vice-Chairman, proceeded with the matter.

It was moved and seconded that the Decision of the Discipline Committee be accepted.

Counsel made no submissions.

The solicitor, counsel and the reporter retired.

The motion was *carried.*

It was moved and seconded that the solicitor be reprimanded in Convocation and be required to pay the expenses incurred by the Society in the investigation.

It was moved and seconded that Convocation by Order disbar the solicitor and that his name be struck off the Roll of Solicitors.

The solicitor, counsel and the reporter returned.

The solicitor and counsel were advised that the Decision of the Discipline Committee had been accepted by Convocation and of the motions respecting penalty before Convocation.

Mr. Scott was prepared to proceed and made submissions on behalf of the solicitor.

The solicitor, both counsel and the reporter withdrew.

The motion that the solicitor be disbarred was *lost*.

The motion that the solicitor be reprimanded in Convocation and pay the Society's expenses of its investigation was *carried*.

The solicitor, counsel and the reporter returned.

The solicitor and counsel were informed of Convocation's decision. The solicitor was advised of his right of appeal and that if he wished to do so, he could waive his right of appeal and request that the penalty of reprimand be carried out forthwith. The solicitor waived his right of appeal. Counsel and the reporter retired.

The Treasurer reprimanded the solicitor.

. . . . . .

**Re: LAURENCE EDWARD MOSES, Toronto**

Mr. J.D. Carnwath, Vice-Chairman, placed the matter before Convocation.

The reporter was sworn.

The solicitor attended with his counsel, Mr. Ian G. Scott. Mr. S.E. Traviss represented the Society.

Mr. Scott stated that he was ready to proceed.

The Secretary read the Decision of the Discipline Committee dated 3rd June, 1976, wherein the solicitor was found guilty of professional misconduct, having invested monies belonging to a client in properties owned by a corporation he controlled without ensuring that the client was represented in the transactions by an independent solicitor.

It was moved and seconded that the Decision of the Discipline Committee be accepted.

Mr. Scott made submissions on behalf of the solicitor.

The solicitor, counsel and the reporter withdrew.

The motion was *carried.*

It was moved and seconded that the solicitor be reprimanded in Convocation and be required to pay the costs of the Society in connection with the investigation and prosecution of the Complaint.

The solicitor, counsel and the reporter returned.

The solicitor and counsel were advised that the Decision of the Discipline Committee had been accepted by Convocation and of the motion respecting penalty before Convocation.

Mr. Scott made no submissions on behalf of the solicitor.

The solicitor, both counsel and the reporter withdrew.

The motion that the solicitor be reprimanded in Convocation and required to pay the costs of the Society's investigation and prosecution of the Complaint was *carried.*

The solicitor and the reporter returned.

The solicitor was informed of the action taken by Convocation. He was advised of his right of appeal and that if he wished to do so, he could waive his right of appeal and request that the penalty of reprimand be carried out forthwith. The solicitor waived his right of appeal. The reporter withdrew.

The Treasurer reprimanded the solicitor.

. . . . . .

There being a considerable amount of work remaining on the agenda, Convocation agreed to adjourn and to resume on Friday, 25th June, 1976, at 10:00 a.m.

. . . . . .

**CONVOCATION ADJOURNED AT 5:30 P.M.**

. . . . . .

Read in Convocation and confirmed 17th September, 1976.

"W. Gibson Gray"

Treasurer

THE LAW SOCIETY OF UPPER CANADA

# Minutes of Convocation

Volume 1 Number 3

Members wishing to receive the Minutes of Convocation are asked to complete the form below and send it to the Society.

---

The Secretary,
The Law Society of Upper Canada,
Osgoode Hall,
Toronto, Ontario
M5H 2N6

I would like to receive the Minutes of Convocation at the address below:

Name .....

Address .....

.....

.....

# MINUTES OF CONVOCATION
## (ABRIDGED)

RESUMED – Friday, 25th June, 1976
10:00 a.m.

**PRESENT**:

The Treasurer (Mr. W. Gibson Gray) and Messrs. Bowlby, Brulé, Carnwath, Carrier, Carter, Carthy, Cartwright, Chappell, Cooper, Farquharson, Fennell, Finlayson, Furlong, R.J.S. Gray, Ground, Kellock, Levinter, Linden, Lochead, Montgomery, O'Brien, Ogilvie, Pepper, Rogers, Seagram, Sheard, Strauss, Mrs. Sutherland, and Mr. White.

. . . . . .

## LEGAL EDUCATION COMMITTEE–Mr. Finlayson

Mr. B.H. Kellock presented the Report of the Legal Education Committee of its meeting on Thursday, 10th June, 1976.

The following members were present: Mr. G.D. Finlayson, Chairman, Mr. J.D. Ground, Vice-Chairman, and Messrs. Brulé, R.J. Gray, Rogers, Salhany and Shibley.

### SUB-COMMITTEE TO REVIEW BAR ADMISSION COURSE

Mr. Stuart Thom was appointed a member of this Sub-Committee.

### SPECIAL CONVOCATIONS –
**Call to the Bar Ceremonies 1977**

It is necessary to fix the dates for the Special Convocations for the Call to the Bar ceremonies for the successful candidates from the 18th Bar Admission Course, to enable the necessary accommodations to be reserved in Toronto, Ottawa and London. The estimated number of candidates to be called to the Bar in Toronto in the spring of 1977 is approximately 690.

The Director recommended that there be one Special Convocation at the O'Keefe Centre in 1977 rather than two Special Convocations on successive days as has been the case in the last two years. The Director recommended that the Special Convocations in 1977 be held at the following places on the following dates:

Toronto – Friday, March 25th, 1977

Ottawa – Monday, March 28th, 1977

London – Tuesday, March 29th, 1977

The Committee recommended the dates be revised as follows:

Toronto – Monday, March 28th, 1977

Ottawa – Tuesday, March 29th, 1977

London – Wednesday, March 30th, 1977.

**BAR ADMISSION COURSE – Special Examinations**

At the end of the teaching term of the Bar Admission Course, special examinations are held in each section of the Course for any student or students who have been unable by reason of illness or disability or other reasonable cause to write the regular examination. Heretofore such special examinations have been written in and during the second week immediately following the end of the teaching term and the results of these examinations have been processed with the results of the regular examinations and students writing special examinations who have successfully completed the Course have been called at the Special Convocation for the Bar Admission Call to the Bar ceremonies. This has required the Special Convocation date being delayed to allow sufficient time for the special examinations. The Director recommended that in 1977 and subsequent years the candidates who have successfully passed all regular examinations be called at the Special Convocation and that the Call to the Bar of candidates requiring special examinations for successful completion of the Bar Admission Course be postponed to a regular Convocation at a later date. The Director further recommended that in 1977 the special

examinations be written in the week commencing Monday, March 28th.

*Approved*

**CARLETON UNIVERSITY – Proposed Publication**

Professor Edward R. Myers of the Faculty of Law, Carleton University, proposed to publish a periodical journal entitled "Just in Time" for distribution at a nominal fee within the secondary school system. The purpose of the publication is to "help instil in the reader a sense of appreciation of the values implicit in Canadian Law". Professor Myers sought the Society's endorsement of the project as an assistance to receiving a grant for this publication.

The Committee recommended that the Director send a letter approving the project.

**LADY READING LAW CLUB SCHOLARSHIP**

At the February 1976 meeting of this Committee, a question was raised respecting the continuation of the prize donated by the Lady Reading Law Club for the female student obtaining the highest academic standing in the Course. The Secretary wrote to the Treasurer of that Club and her reply stated "we have brought this suggestion to our members at our recent meeting and have decided that we drop our sponsorship of a female student".

*Noted*

**BAR ADMISSION COURSE AND CONTINUING EDUCATION**

The Committee dealt with a number of special petitions and requests; considered financial statements for the Bar Admission Course and Continuing Education; and reviewed a summary of Continuing Education Programmes presented during May 1976 and the Continuing Education publications report for May 1976.

**BAR ADMISSION COURSE – LONDON**

**Faculty Appointments**

The Director recommended that the following appointments be made for the teaching term which commenced September 7th, 1976:

**(a) Senior Instructors**

| SENIOR INSTRUCTOR | COURSE |
|---|---|
| J.G. O'Grady | Real Estate and Landlord and Tenant |
| John H. Porter | Accounting & Analysis of Financial Statements |
| S.N. Adams | Income Tax |
| Angus L. McKenzie, Q.C. | Civil Procedure I |
| H.W. Hockin, Q.C. | Civil Procedure II |
| G.F. Plaxton, Q.C. | Corporate and Commercial Law |
| Samuel Lerner, Q.C. | Law Office Organization and Procedure |
| Robert M. McClean | Family Law |
| W.R. Poole, Q.C. | Criminal Procedure |
| J.W. Cram, Q.C. | Estate Planning |
| R.J. Lamon, Q.C. | Administration of Estates |
| Gretta J. Grant, Q.C. | Legal Aid |
| George L. Mitchell, Q.C. | Professional Conduct |
| R.J. Flinn, Q.C. | Creditors' Rights and Bankruptcy |

**(b) Real Estate and Landlord and Tenant Section**

| INSTRUCTORS | STAND-BY INSTRUCTORS |
|---|---|
| Peter C. Gillespie | Robert G. Siskind |
| Paul E. Bradley | D. Wayne Lewis |
| James R. Carrie | |
| A.H. Hanes | |

*Approved*

**THE REPORT WAS ADOPTED**

. . . . . .

**MOTION: AMENDMENT OF SECTIONS 35 AND 35a, THE LAW SOCIETY ACT**

It was moved, seconded and *carried,* that Convocation approve in principle amending Sections 35 and 35a of The Law Society Act to apply to student members and that the matter be referred to the Legislation and Rules Committee to draft the necessary amendments to The Law Society Act.

. . . . . .

## FINANCE COMMITTEE–Mr. Shepherd

Mr. S.E. Fennell presented the Report of the Finance Committee of its meeting on Thursday, 10th June, 1976.

The following members were present: Messrs. Shepherd (Chairman), Fennell, Ground, Ogilvie, Pallett and Sheard.

**ROLLS AND RECORDS**

*Deaths*

The following members have died:

| | |
|---|---|
| Thomas Charles Soanes | Called – 21 March 1975 |
| Windsor | Deceased – 7 April 1976 |
| William Ralph Newey | Called – 17 March 1967 |
| Toronto | Deceased – 11 May 1976 |
| Richard Whittaker Reville, Q.C. | Called – 18 June 1936 |
| Victoria B.C. | Deceased – 27 May 1976 |
| (Former County Court Judge) | |
| Albert Hawley Boddy, Q.C. | Called – 18 May 1916 |
| Brantford | Deceased – 15 May 1976 |
| (Life Member) | |
| John Thomas Weir, Q.C. | Called – 16 June 1938 |
| Toronto | Deceased – 24 May 1976 |

| | |
|---|---|
| William Kitchener Brown, Q.C.<br>Port Colborne<br>(Life Member) | Called – 17 September 1925<br>Deceased – 28 May 1976 |
| The Hon. William Ross Macdonald,<br>P.C., C.D., Q.C.<br>Brantford<br>(Life Member; former<br>Lieutenant-Governor of Ontario) | Called – November 1919<br>Deceased – 28 May 1976 |

*Noted*

*Disbarment*

The following former member has been disbarred and struck off the rolls, and his name has been removed from the rolls and records of the Society:

| | |
|---|---|
| George Lewis Cole<br>London | Called – 12 April 1962<br>Disbarred – Convocation<br>21 May 1976 |

*Noted*

**RESIGNATION**

Early in the year, *Alexander Kire Gigeroff* of Yarmouth, Nova Scotia, advised that he intended resigning from the Society but his formal application was never received. In May 1976, the Committee reported to Convocation that Mr. Gigeroff had not paid his fees for 1975-76 and recommended that he be suspended from the practice of law as of 21st May, 1976, unless his formal application to resign was received prior to that date.

Mr. Gigeroff's letter of resignation was received on 19th May, 1976, together with the required statutory declaration as well as a request to be relieved of the requirement of publication in the Ontario Reports.

*Approved*

**ERRORS AND OMISSIONS INSURANCE PLAN – ARREARS**

There were approximately 194 members of the Society who still had not complied with the requirements respecting the

Insurance Plan. Of these defaulters, 26 had been called to the Bar in April 1976.

The Committee recommended that those members who had not complied with the requirement respecting the Insurance Plan be advised that the Committee will recommend to Convocation that the rights and privileges of those still in default on 25th June, 1976 be suspended on that date for one year and from year to year thereafter or until they comply with the requirements respecting coverage for Errors and Omissions Insurance or exemption therefrom.

## LIBRARIES AND REPORTING COMMITTEE

### County Law Libraries

*Annual Grants*

The Chief Librarian presented a memorandum listing those law associations which had sent in their Annual Returns for 1975 and setting out the amount of the grants to which they appear to be entitled under the Regulation in 1975 and 1976. The Libraries and Reporting Committee approved these grants at its meeting on 10th June, 1976, subject to the approval of this Committee.

*Approved*

*Special Grants*

The Chief Librarian presented a memorandum with respect to applications for special grants under Regulation 35(1) from two law associations. The Libraries and Reporting Committee approved these grants at its meeting on 10th June, 1976, subject to the approval of this Committee.

*Approved*

*Barristers' Library – 145 Queen Street West*

The Libraries and Reporting Committee at its meeting on June 10th, 1976 approved, subject to the approval of the Finance Committee, the purchase of an air conditioner-humidifier for installation in the Barristers' Library at 145 Queen Street West, if in the opinion of Mr. Arthur Heeney, the Society's architect, it is necessary to preserve the

books.

The Committee recommended that this expenditure *not* be made.

**OSGOODE HALL FENCE**

The Committee recommended that Convocation be advised that Mr. Heeney has been instructed to proceed with the renovation of the remainder of the fence and to arrange for the cost to be paid approximately one-half out of the Budget for 1976/77 and the balance out of the Budget for 1977/78.

**ESCALATORS**

Mr. Peter Bell reported that J. & E. Hall (Canada) Limited of Montreal are unable to tender on the maintenance of the escalators, as they have no facilities in Toronto. It is recommended that the full maintenance-parts contract proposed by Beckett Elevator Limited be accepted at a cost of $575 per month.

*Approved*

**GENERAL MAINTENANCE – 1976**

By letter of April 12th, 1976, Mr. Heeney made the following report:

> "In view of the extensive alterations and renovations proposed to your building this coming year, I do not propose any general work other than the following:
>
> 1. West basement work room and stair wall to be cleaned and waterproofed.
>
> Estimated cost $1,000
>
> 2. Painting touch up and repairs in the Law School Building to be carried out on a time and material basis by Richard Mayer as in past years.
>
> Estimated cost $2,500"

*Approved*

**HEATING**

An invoice from the Ministry of Government Services in the amount of $54,696.00 had been presented to the Society to cover the cost of heating the Society's part of Osgoode Hall for the period from April 1975 to February 1976.

A letter from Mr. Heeney dated May 12th, 1976, respecting the invoice was before the Committee.

*Approved*

**FIRE ALARM SYSTEM**

Mr. Heeney, the Society's Architect, recommended that maintenance of the fire alarm system be undertaken by the Government and billed to the Society in the same way as heating, etc. This recommendation was made because the fire alarm system is in fact one continuous system throughout Osgoode Hall and should be maintained from one source.

*Approved*

**STUDENT CAFETERIA**

In accordance with past practice, it has been necessary to subsidize the Student Cafeteria for losses incurred on examination days. Because examinations are held away from Osgoode Hall, there is a substantial drop in sales on these days but the fixed costs of staff remain unchanged. The subsidy for 1975/76 is $1,324.80 compared to $1,090.50 for 1974/75 and has been paid. The Committee was asked to ratify this payment.

*Approved*

**THE REPORT WAS ADOPTED**

. . . . . .

**MOTION TO SUSPEND: ERRORS AND OMISSIONS INSURANCE PLAN**

It was moved, seconded and *carried,* that the rights and privileges of those members who failed to pay the levy prescribed under Section 53 of The Law Society Act within four

months after the date on which payment was due, namely, the 1st of January 1976, be suspended from the 25th of June 1976 until their levies are paid or until applications for exemption from coverage are approved.

Of the 26 members whose names were before Convocation, 22 were suspended as of 25th June, 1977. Fifteen members met the requirements and were reinstated prior to publication of the notice to the profession in the Ontario Reports. Six members were subsequently reinstated and the following member is still suspended:

Nadia Lawryshyn, West Hill

. . . . . .

## PROFESSIONAL CONDUCT COMMITTEE–Mr. Cooper

Mr. A.M. Cooper, Chairman, presented the Report of the Professional Conduct Committee of its meeting of Thursday, 10th June, 1976.

The following members were present: Messrs. Cooper (Chairman), Bynoe, Carnwath, Carter, Cartwright, Cass, Chappell, Fennell, Furlong, Mrs. Legge, Messrs. Lochead, Ogilvie, Pallett, Rogers, Seagram, Shibley, Strauss, Mrs. Sutherland, Messrs. Tobias, White and Willoughby.

1. Ruling 24 of the Society's Rules of Professional Conduct reads as follows:

"SPECIALIZATION

A solicitor may not, by published notice or otherwise, describe himself as a "specialist" in any branch of law or knowingly permit himself to be so described.

A number of announcement cards that are objectionable on this basis have come to the attention of the Committee. They announce, for example, that "Mr. X will be associated with the firm 'specializing in industrial relations' or 'taxation matters'."

On the other hand, if a solicitor has confined or restricted his practice to a certain branch of law, there is no objection to his announcing this in such terms or to his permitting himself, if the occasion requires it, to be

described as having done so".

A lawyer asked the Committee whether it is proper to have set out on his letterhead the area or areas to which his practice is restricted. The Committee instructed the Secretary to advise that to indicate on a letterhead the area or areas to which one's practice is restricted would be contrary to the provisions of Ruling 10, paragraph 4 of the Rules of Professional Conduct and that it was not prepared to authorize an exception as would be permitted by paragraph 7 of the said Ruling.

It was moved in Convocation, seconded and *carried,* that the recommendation made in the Report be rejected and that each application for exception from the operation of Ruling 10 be dealt with on its merits.

2. In addition to the foregoing item the Committee also considered several others, issuing appropriate instructions in each case.

**THE REPORT AS AMENDED WAS ADOPTED**

. . . . . .

## LIBRARIES AND REPORTING COMMITTEE—Mr. Seagram

Mr. C.J. Seagram, Chairman, presented the Report of the Libraries and Reporting Committee of its meeting on Thursday, 10th June, 1976.

The following members were present: Messrs. Seagram (Chairman), Farquharson, Salhany, Shibley, Strauss and Willoughby, and Miss A.R. McCormick.

## GREAT LIBRARY

### GIFTS AND DONATIONS

The following donations to the Great Library have been received:

| | |
|---|---|
| T.B. Seagram, Waterloo | A total of five volumes, comprising the *Statutes of Ontario* for the years 1880-1884, inclusive. |

| | |
|---|---|
| Stuart Thom, Q.C., Toronto | A total of 2 volumes, consisting of Ontario Committee on the Healing Arts *Report* 1970. Toronto, Queen's Printer, 1970. |
| Michael Vorontsov, Toronto | A total of 1 volume, consisting of Darrow, Clarence Seward, *Attorney for the Damned.* Edited with notes by Arthur Weinberg. Foreword by Justice William O. Douglas, New York, Simon and Schuster, 1957. |

*Noted*

**BARRISTERS' LIBRARY – 145 QUEEN STREET WEST**

The Committee recommended that the Law Society approve of the purchase of an air conditioner-humidifier from HiRoss Denco for installation in the Barristers' Library at 145 Queen Street West, if in the opinion of Mr. Arthur Heeney, the Society's Architect, it is necessary to preserve the books, approved subject to the approval of the Finance Committee.

## COUNTY LAW LIBRARIES

**ANNUAL GRANTS**

The Associations listed below sent in their Annual Returns for the year 1975. The amounts of grants to which they are entitled under the Regulations in 1976 and 1975 are as follows:

| | *1976* | | *1975* |
|---|---|---|---|
| Durham | $2,000.00 | | $2,000.00 |
| Frontenac | 2,000.00 | | 2,000.00 |
| Muskoka | 1,150.00 | | 935.00 |
| Rainy River | 750.00 | 750<br>*– 10% 75 | 675.00 |
| Renfrew | 1,355.00 | | 1,285.00 |
| Stormont, Dundas & Glengary | 1,145.00 | | 1,215.00 |
| Sudbury | 2,000<br>* – 200 | 1,800.00 | 2,000.00 |
| Parry Sound | 750.00 | | 750.00 |

*Indicates penalty of 10% because of late filing of Annual Returns.

*Approved*, subject to the approval of the Finance Committee.

**SPECIAL GRANTS**

The Committee recommended that the following Special Grants be approved in accordance with Regulation 35(1) of The Law Society Act, subject to the approval of the Finance Committee:

| | |
|---|---|
| Kenora | $2,000.00 |
| Prescott & Russell | $2,250.00 |

*Approved*

## REPORTING

**CANADA LAW BOOK LIMITED – TENDER**

The Committee recommended that the tender of Canada Law Book Limited to publish the Ontario Reports for the twelve months commencing July 1, 1976, be approved.

. . . . . .

Mr. Cartwright took no part in the discussion and did not vote.

**THE REPORT WAS ADOPTED**

. . . . . .

## UNAUTHORIZED PRACTICE COMMITTEE–Mr. Fennell

Mr. S.E. Fennell, Chairman, presented the Report of the Unauthorized Practice Committee of its meeting on Thursday, 10th June, 1976.

The following members were present: Messrs. Fennell (Chairman), Cass, Furlong, Mrs. Legge, Messrs. Ogilvie, Pallett, Strauss, Tobias and White.

1. The Committee considered a letter from a solicitor in Kingston complaining about an advertisement offering a service of incorporating companies for $100.00 fees plus the fee payable to the government. The Secretary was instructed to

retain counsel for the Law Society to investigate this matter to see if there is sufficient evidence for a prosecution under Section 50 of The Law Society Act.

2. The Committee considered a letter from an Osgoode Hall Law School student which outlined the type of services performed by the students in the Legal Aid Programme. The Committee recommended that the Secretary communicate with the Chairman of the Programme and the Professor that supervises the Programme in order to ascertain if the wording of the letter was authorized.

3. The Committee considered a letter from a Justice of the Peace from Iroquois Falls, asking for legal advice from the Law Society as to his activities. The Secretary was instructed to write the correspondent and suggest that he consult his solicitor and ask for a legal opinion.

**THE REPORT WAS RECEIVED**

. . . . . .

**SPECIAL COMMITTEE ON**
**J. SHIRLEY DENISON BEQUEST**

Mr. Terence Sheard, Chairman, presented the Report of the Special Committee on J. Shirley Denison Bequest of its meeting on Thursday, 10th June, 1976.

The following members were present: Messrs. Sheard (Chairman), Cass and W.G. Gray (Treasurer).

The Committee considered three applications and recommended that two of them be granted.

**THE REPORT WAS ADOPTED**

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**SPECIAL COMMITTEE ON Q.C.'S**

Mr. H.G. Chappell presented the Report of the Special Committee on Q.C.'s of its meeting on Thursday, 17th June, 1976.

The Committee met on Thursday, June 17th, 1976, the following members being present: Messrs. Chappell, W.G. Gray (Treasurer), Humphrey and Ogilvie.

The Committee was appointed in consequence of a resolution passed at the last Annual Meeting of the Society which reads as follows:

> "That the Law Society recommend to the Governments of Canada and Ontario that the title 'Queen's Counsel' be abolished and that if this be done then that the Law Society amend its Rules of Conduct to prohibit the use of the words 'Queen's Counsel' or the letters 'Q.C.' in any firm name, letterhead, calling card, or sign of a member of the Society and that the Society direct its Professional Conduct Committee to review the Professional Conduct Handbook and all other Society documents regulating the conduct of members and to make all necessary changes in these documents to implement this motion."

Our duty is to consider the resolution and all its implications and to recommend to Convocation a course of action which it might be appropriate now to pursue.

We considered first the source of the authority to appoint Queen's Counsel and the statistics of recent years disclosing how that authority has been implemented.

It has been held in Ontario in Re Queen's Counsel 23 OAR 792 (affirmed in the Privy Council) that "the right to appoint Queen's Counsel is a branch of the royal prerogative" and that the patent granted is "a mark of honour and professional rank conferring precedence."

Appointments are now made pursuant to The Barristers Act which also accords to Queen's Counsel certain precedence. There is no limitation by statute in Ontario respecting the

numbers of appointments to be made in any one year nor any requirement that the views of any members of the judiciary or the profession be sought.

All provinces and the federal government appoint Queen's Counsel. In British Columbia and Manitoba there are, by statute, limitations on the numbers which may be appointed in any one year – ten and four respectively. British Columbia also requires that the Attorney General first consult with the two Chief Justices and two members of the Law Society, appointed for the purpose, before making a recommendation. In Newfoundland, we were informed, Queen's Counsel pay a substantially higher fee to the Law Society than do those members who do not hold the rank.

Having considered the law here and elsewhere in Canada we turned to a study of the statistics relating to appointments in Ontario and the procedure now followed with a view to determining, as best we could, the apparent cause of the dissatisfaction with the present system evidenced by the enactment of the resolution. We were greatly aided by the letters received from our members expressing their view on this matter.

After inquiry from the Department of the Attorney General we concluded that the appointments were made on the recommendation of the Attorney General after consultation with his colleagues in the Cabinet and after applying the following rules:

1. The lawyer in question must apply.
2. The application must be supported by recommendation from members of the Bar or the judiciary attesting to his proficiency in the practice of law.
3. In normal circumstances the applicant must have had at least 12 years' experience as a lawyer.
4. If, in addition to meeting the foregoing requirements, the applicant has a record of outstanding community service, this may be taken into account.

5. The Law Society of Upper Canada is consulted to ensure that no disciplinary proceedings are pending against the applicant.

We examined the numbers of appointments made in the last five years and the numbers of members of the Law Society who already hold the rank. We find that, during the five year period, about 20% of the Bar hold patents as Queen's Counsel. We then examined the total membership of the Law Society at 31 December in each of those five years and calculated the percentage of those who were juniors appointed in any one year. The table follows:

| Year | Total Bar | 80% | Appointments | % of Juniors Appointed |
|---|---|---|---|---|
| 1972 | 7610 | 6088 | 100 | 1.6 |
| 1973 | 8061 | 6449 | 98 | 1.5 |
| 1974 | 8639 | 6911 | 96 | 1.4 |
| 1975 | 9264 | 7411 | 105 | 1.4 |
| 1976 | 9999 | 7999 | 123 | 1.5 |

The percentage so appointed did not seem large, but we then reflected that no one with fewer than 12 years at the Bar, in normal circumstances, is eligible to be appointed. When we delete those not eligible for appointment in any case, and calculate the percentage appointed of those with the required 12 years of service, a different picture presents itself: At 31 December, 1975, for example, there were 9999 members of the Law Society of whom 5184 had been called so recently as not to be eligible for appointment. There were 2202 Queen's Counsel at that date. Arithmetic discloses that, of those called to the Bar 12 years or more, approximately 46% were Queen's Counsel. If the patent is intended to evidence an unusually high degree of competence at the Bar and be recognized as a mark of high honour, (as we think it should be) this proportion seems inordinately high simply because the expansion of numbers dilutes the honour.

The first ground of dissatisfaction with the present system

seems simply to be that there are too many Queen's Counsel and if that fault could be remedied much would have been accomplished.

We then considered to what extent the dissatisfaction might be thought to spring from the quality of the appointments which were made, recognizing that opinions may vary widely on this matter. It is common knowledge that for many decades in this province and at the federal level, whatever qualities might be required of a prospective appointee, being a reliable adherent of the political party which then formed the government of the day was a sine qua non. The same might have been said of judicial appointments. An examination of the lists of those appointed in recent years, however, supports the view that the appropriate political affiliation is no longer a requirement for appointment as Queen's Counsel (nor indeed for a judicial appointment) and the Committee warmly welcomes the change and expresses the hope that we will never return to the iniquitous system of patronage affecting the selection of Queen's Counsel which prevailed for fifty years or more. We do not say that the correct political affiliation constitutes an insurmountable hazard to being appointed, but it is not now a prerequisite.

Some dissatisfaction springs from the view held by many that the honour belongs only to advocates and clearly many appointments are made of distinguished lawyers whose practice has never taken them into a court room. Others, and possibly a majority of our members, consider that the profession is not in fact divided in this province, that the burdens assumed by Queen's Counsel in England, for example, are not applicable here, and that room should be made in any honours system affecting the profession for those of outstanding merit whose practice is wholly or principally outside the Courts. In any case, the authority making the appointments clearly holds the latter view and if the system remains at all it is very unlikely that we can change this aspect of it.

Respecting the quality of those appointed the Committee believes that in recent years it has been generally high. In any

human system of honours there will always be a very few names included for reasons which must be taken to be locked in the heart of those who included the name since the reasons are beyond the comprehension of all other observers, but those names are very few and the problem is not peculiar to this particular honour system nor susceptible to solution.

The Committee reached the view that such dissatisfaction as exists rests upon the feeling that far too many appointments are made, that the honour is thereby debased to a degree, and that reasons other than marked proficiency in the law (such as an interest in public or community affairs at large) enter into the appointments and they should not. Some members holding strong egalitarian views object in principle to any honours system whatever.

Turning to the specific recommendation that the Law Society ask the governments concerned to "abolish the title" your Committee has no reason whatever to suppose that such request would be seriously considered. Neither would agree unless both did; this would entail the revocation of all existing patents; we are satisfied this will not happen. The mail which the Law Society received from its members respecting this issue disclosed a strong feeling that the system should be preserved in principle and that the Law Society should make an effort to persuade those responsible to remedy its defects.

As to the Law Society, having called upon the Crown to cease exercising a prerogative, then forbidding its members to use any designation disclosing the possession of a patent, (which seems to be the meaning of the resolution) it is not clear to your Committee by what authority we would do so. One holding such a patent from the Crown has a proprietary right in it until revoked by the Crown. The precedence it confers is conferred by statute. Our members have not proved in the past to be wanting in litigious spirit and your Committee considers that an action would be brought to test the Law Society's authority to forbid any of its members from using letters indicating possession of an honour granted by the Crown and we think the outcome of such an action to be doubtful at best.

The Committee is of opinion that it is the business of the

Law Society to try to improve the working of an honour system which is not ours but in which we have a legitimate interest. We consider that the Treasurer, and such benchers as he shall see fit to appoint, seek a meeting with the Attorney-General of Ontario first (and of Canada later) and urge upon him the development of a system such as this:

1. In any year not more than, say, one per cent of those, not already holding the patent, who have completed 12 years' service at the Bar be appointed Queen's Counsel. At present this limit would be about 35. There might be some elasticity to permit a small surplus in one year made up by a short-fall in the next.
2. That the Attorney General urge his colleagues to adopt the practice of leaving such appointments wholly to him personally without any intervention whatsoever by other members of Cabinet or the Legislature. This is the practice in England where the Lord Chancellor is deemed to be personally responsible for such appointments although no doubt all members of Cabinet are responsible, as a constitutional matter, for the advice given to the Crown.
3. That no public service other than service to the law should be taken into account. It may be desirable to have some honours system whereby distinguished citizens could be recognized for public service but that should not enter into the appointment of a lawyer as "Her Majesty's Counsel learned in the law."
4. That the Law Society offer any help whatsoever in a consultative capacity to the Attorney General if he should see fit to call upon them, just as the judiciary would no doubt be ready to do.
5. That the qualities required be outstanding integrity and competence, and deep learning in the law. The preference would be given to advocates but provision could be made for some men and women, not

practicing in the courts, of outstanding eminence in their field of the law.

The Committee suggests that the Treasurer report the result of his attendance upon the Attorney General to Convocation in January next at which time further consideration could be given to the matter. It is the recommendation of the Committee that the resolution be not implemented at this time.

It was moved and seconded that recommendation 1 be replaced by a recommendation that all present patents be revoked, that the Society discuss with the Attorney General a new honour to be awarded after consultation with the Society and the Judiciary, to be presented to not more than 100 members and thereafter to not more than 5 in any year.

Convocation proceeded to vote on the Report.

**THE REPORT WAS ADOPTED**

The motion was *not put* because it was contrary to the Report that was adopted.

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**MOTION RE: Q.C.'S**

Convocation had before it a motion respecting Q.C.'s which was moved and seconded at Convocation on 16th January 1976. Convocation had deferred consideration of this motion until the motion respecting Q.C.'s passed at the Annual Meeting had been considered.

The motion was *withdrawn.*

. . . . . .

**MOTION RE: REPORT ON Q.C.'S**

It was moved, seconded and *carried* that a copy of the Report on Q.C.'s be sent to all members of the profession.

. . . . . .

**ANNUAL MEETING**

It was moved, seconded and *carried* that the Annual Meeting of the Society for 1976 take place on Friday, 12th November, 1976, at 10:00 a.m., in Convocation Hall, at Osgoode Hall.

. . . . . .

**ANNUAL MEETING – VOTING BY PROXY**

Mr. P.G. Furlong gave notice that he would present to Convocation in September a motion respecting voting by proxy at meetings of members of the Society.

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**DISCIPLINE COMMITTEE**

**COMPENSATION FUND**

It was moved, seconded and *carried* that Mrs. *Helen Murray* be appointed a referee for Compensation Fund purposes.

. . . . . .

**CONVOCATION ADJOURNED FOR LUNCHEON AT 1:00 P.M.**

. . . . . .

**CONVOCATION RESUMED AT 2:15 P.M.**

. . . . . .

**PRESENT:**

The Treasurer and Messrs. Brulé, Carnwath, Carter, Carthy, Cartwright, Cooper, Furlong, R.J.S. Gray, Levinter, Linden, Montgomery, O'Brien, Ogilvie, Pepper, Seagram,

Mrs. Sutherland, and Mr. White.

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**SPECIAL COMMITTEE ON ERRORS AND OMISSIONS INSURANCE**

Mr. J.J. Carthy, Chairman, presented the Report of the Special Committee on Errors and Omissions Insurance of its meeting on Wednesday, 9th June, 1976.

The Committee met on Friday, April 2nd, 1976, the following members being present: Messrs. Carthy (Chairman) and Levinter and Mrs. Legge. Messrs. Maltman and Norman attended at the Chairman's invitation. The Committee also met on Wednesday, June 9th, 1976, the following members being present: Messrs. Carthy (Chairman), W.G. Gray (Treasurer), Levinter, Shibley and Mrs. Legge. Messrs. Maltman and Norman attended at the Chairman's invitation.

Last autumn Convocation authorized a new programme of insurance to commence January 1, 1977 at the expiry of Lloyd's current policy

| | | | |
|---|---|---|---|
| Basis: | $ 5,000 | – | deductible |
| | 20,000 | – | funded by Society |
| | 75,000 | – | insurance coverage |
| | $100,000 | | |

Plus: a policy to cover losses to the Society's fund over an aggregate in any year of $2,000,000.

We were authorized to negotiate the insurance coverage and to take steps to hire personnel and set up the necessary administration for the Society's fund operation.

In the past months we have been canvassing the insurance market and planning the proposed funding. Our findings bring us back with a new recommendation. We now ask Convocation to approve a programme as follows:

| | | |
|---|---|---|
| $ 5,000 | – | deductible |
| 95,000 | – | funded by Society |
| $100,000 | | |

Plus: a policy of "stop loss" insurance to protect against any loss in one year exceeding $2,000,000.

The Committee recommends that Convocation authorize a programme of compulsory Errors and Omissons Insurance to cover the practising members of the Bar commencing January 1st, 1977 upon the expiry of Lloyd's current policy on the following basis:

$5,000 deductible;

$95,000 funded by the Society;

Stop-loss insurance against the aggregate payments in any year exceeding $2,000,000, to protect the Society's fund against depletion, the levy to be charged the practising members of the Bar for 1977 to be $375 made up as follows:

| | |
|---|---|
| Stop-loss | $ 10.00 |
| Adjusting | 30.00 |
| Counsel and Legal | 12.00 |
| Administration | 10.00 |
| Start up, etc. | 10.00 |
| Payment to fund | 303.00 |
| | $375.00 |

The Committee further recommends that it be authorized to engage a Claims Manager to be responsible under the general direction of Convocation for the management of the claims made against the fund at a salary to be fixed by your Committee with the approval of the Chairman of the Finance Committee, to engage a secretary to work for him and to obtain suitable office accommodation, these costs to be approved by your Committee and the Chairman of the Finance Committee.

It was moved, seconded and *carried* that the Report be

adopted in principle subject to:

- assurance that a stop loss is available
- excess insurance being available as it is now
- the Society having the legal power to carry out the recommendations contained in the Report.

**THE REPORT AS AMENDED WAS ADOPTED**

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**BUILDING COMMITTEE**

The Treasurer presented the Report of the Building Committee of its meeting on Wednesday, 23rd June, 1976.

The following members were present: Messrs. W. Gibson Gray (Chairman), Common, Levinter, Pepper, Thom and Wilson.

Mr. Heeney was also present.

**1. BUILDING PROGRAMME – Contract Proposal**

The Committee had before it a proposal, dated 20th April 1976, submitted by Dalton Engineering & Construction (1974) Limited that it be appointed as Management Contractor on the alterations to Osgoode Hall which will be undertaken by the Society in the very near future. Mr. Heeney explained the alternatives in dealing with construction contracts, namely, by way of a general contractor or a management contractor.

Under a general contract, the contractor and the owner agree on a fixed price for the whole project. The owner does not have close control over costs and quality of construction. A general contractor must look to the difference between his costs of sub-trades and the agreed contract price for his profit.

Under a management contract, the contractor is engaged for a fee (normally a percentage of the contract costs). He thereby becomes the owner's representative.

Mr. Heeney informed the Committee that in 1968, Dalton was hired as a general contractor on the most recent renovations

and that such contract was turned into a management contract and proceeded very successfully.

Mr. Heeney is of the opinion that a management contract would be more advantageous to the Law Society than a general contract approach.

The Committee recommended the approval of Mr. Heeney's recommendation in principle that Dalton Engineering & Construction (1974) Limited be retained on a management contract and that as the Society's Architect Mr. Heeney be authorized to negotiate with the Dalton organization and to bring back a further proposal.

**2. LAND TO BE ACQUIRED IN THE NORTH COURT**

In connection with obtaining title or a licence to build over the small piece of land between the two parts of the building, Mr. Heeney provided an up-to-date survey. Mr. Heeney suggested that in discussions with representatives of the Government of Ontario, the Society attempt to obtain title to the complete strip of land extending northwesterly from the part required for the current building project to the north boundary (formerly Osgoode Street).

The Committee agreed with Mr. Heeney's recommendation and approved the inclusion of this additional land in the discussions to take place with the Minister of Government Services.

**THE REPORT WAS ADOPTED**

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**CONVOCATION ROSE AT 3:30 P.M.**

. . . . . .

Read in Convocation and confirmed 17th September, 1976.

W. GIBSON GRAY

Treasurer

THE LAW SOCIETY OF UPPER CANADA

# Minutes of Convocation

Volume 1 Number 4

Members wishing to receive the Minutes of Convocation are asked to complete the form below and send it to the Society.

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The Secretary,
The Law Society of Upper Canada,
Osgoode Hall,
Toronto, Ontario
M5H 2N6

I would like to receive the Minutes of Convocation at the address below:

Name .....

Address .....

.....

.....

# MINUTES OF SPECIAL CONVOCATION
## (ABRIDGED)

Tuesday, 27th July, 1976
10:00 a.m.

**PRESENT:**

The Treasurer (Mr. W. Gibson Gray) and Messrs. Bowlby, Brulé, Carrier, Cartwright, Common, Farquharson, Fennell, Finlayson, R.J.S. Gray, Ground, Henderson, Mrs. Legge, Messrs. Levinter, Linden, Lochead, Montgomery, Ogilvie, Pallett, Rogers, Seagram, Strauss, Mesdames Sutherland and Tait, Messrs. Tobias, Wallace, Willoughby and Zahoruk.

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## DISCIPLINE COMMITTEE–Mr. Lochead

### Re: JAMES HEATLY PEARSON, Toronto

Mr. G.H. Lochead, Chairman, placed the matter before Convocation.

The reporter was sworn.

The solicitor did not attend. His counsel, Mr. P.T. Matlow, appeared on his behalf and confirmed that he was instructed to accept short notice of the consideration by Convocation of the Decision of the Discipline Committee dated 20th July, 1976. The Affidavit of Service of the Decision on the solicitor by Mr. Thomas Stephany on 20th July, 1976 was filed.

The Secretary read the Decision of the Discipline Committee wherein the solicitor was found guilty of professional misconduct, having misappropriated more than $150,000 of clients' trust funds.

It was moved and seconded that the Decision of the Discipline Committee be accepted.

Counsel for the solicitor made no submissions on his behalf. Counsel and the reporter withdrew.

The motion that the Decision of the Discipline Committee be accepted was *carried.*

It was moved and seconded that Convocation by Order disbar the solicitor and that his name be struck off the Roll of Solicitors and that his membership in the Society be cancelled.

Counsel and the reporter returned. Counsel was advised that the Decision of the Discipline Committee had been accepted by Convocation and of the motion respecting penalty before Convocation.

Counsel made no submissions on behalf of the solicitor.

Counsel and the reporter withdrew.

The motion that Convocation disbar the solicitor was *carried.*

. . . . . .

**DISCIPLINE PROCEDURES – PREVENTIVE MEASURES**

Mr. Lochead advised Convocation that the Society's preventive measures will be reviewed to determine why this series of defalcations was not detected by the former solicitor's accountants or the Society's mandatory reports on members' professional records.

. . . . . .

## LEGAL AID COMMITTEE–Mr. Bowlby

Mr. J.D. Bowlby, Chairman, presented the Report of the Legal Aid Committee of its meeting on Wednesday, 14th July, 1976.

The following members were present: John D. Bowlby, Chairman, and Messrs. Barnes, Carnwath, Chadwick, Ferrier, Finlayson, Mrs. Fleming, Mr. Gilchrist, Mrs. R. Jarmain, Messrs. Jones, Levinter, Lewis, Linden, Ogilvie, Shaffer, Mrs. Smyth and Mr. Wallace.

Also present at the meeting as observers were Sidney B. Linden, Solicitor, Toronto, and Norman Williams, Solicitor, Hamilton, members of The Criminal Lawyers Association.

Mr. H. Purnell, Senior Public Defender, New South Wales, attended the meeting by special invitation.

## REPORT OF THE DEPUTY DIRECTOR

### (a) Finance

The Director's report for the 2 month period ended May 31, 1976, showed that payments from the Fund exceeded the budget as constituted by $679,000. The details were as follows:

| | | |
|---|---|---|
| **Over budget** | | |
| Criminal fees and disbursements | | $618,000 |
| Civil fees and disbursements | | 210,000 |
| Community Clinic funding | | 19,000 |
| | | $847,000 |
| **Under budget** | | |
| Duty Counsel payments | $40,000 | |
| Legal Advice payments | 6,000 | |
| Student Legal Aid Societies | 21,000 | |
| Area Office costs | 50,000 | |
| Provincial Office costs | 51,000 | 168,000 |
| **Net over budget** | | $679,000 |

The cheque run of June 23 (value $2,099,000) fell short of bringing the payment of solicitor's accounts up to date by approximately 1,000 accounts. The Provincial Treasury was unable to deliver in time for the cheque run the additional $300,000 requisitioned on June 14.

The cheque run of July 9 paid all solicitors' accounts approved by the Legal Accounts Department from June 14 to June 30 inclusive. Future cheque runs will maintain this up-to-date status subject only to variations in the average unit cost of solicitors' accounts.

### (b) Statistics

Area office activity for the two months ended May 31, 1976, decreased when compared with the same 2 month period in 1975.

| | *May 31, 1975* | *May 31, 1976* | *Decrease* |
|---|---|---|---|
| Informal applications | 15,623 | 15,291 | 2% |
| Forms 2 received | 18,400 | 16,472 | 11% |
| Certificates issued | 15,142 | 12,871 | 15% |
| Persons assisted by Duty Counsel | 26,120 | 25,651 | 2% |

The rate of refusal of formal applications has increased from 26.9% to 30.9%.

While it is too early in the fiscal year to predict any trends, it is perhaps significant that, for the first time since 1970, reported activity shows a decline.

## REPORT OF THE LEGAL ACCOUNTS OFFICER

### (a) Activity

| | *April* | *May* | *June* |
|---|---|---|---|
| Accounts on hand at beginning of the month | 5087 | 4974 | 4907 |
| Accounts received during month | 5567 | 5669 | 5616 |
| Total Accounts to be processed | 10654 | 10643 | 10523 |
| Less A.O. Files cancelled during month | 43 | 39 | 32 |
| Less Accounts processed during month | 5637 | 5697 | 5331 |
| Balance on hand at month end | 4974 | 4907 | 5160 |

The above figures do not reflect accounts for Interim Disbursements and Supplementary Payments.

### (b) Reviews and Appeals

| | *April* | *May* | *June* |
|---|---|---|---|
| **Reviews** | | | |
| Reviews on hand | 114 | 124 | 45 |
| Reviews received in | 123 | 89 | 135 |
| | 257 | 213 | 180 |
| Settlements reviewed | 127 | 80 | 140 |
| Settlements awaiting review | 91 | 114 | 25 |
| Settlements awaiting further information | 19 | 19 | 15 |
| | 237 | 213 | 180 |

| | *April* | *May* | *June* |
|---|---|---|---|
| **Appeals** | | | |
| Appeals to Taxing Master received during June | – | 1 | – |
| Appeals heard by Taxing Master | 1 | 1 | 1 |
| Appeals pending at the end of the month | 1 | 2 | 1 |
| Appeals abandoned | – | – | – |

### (c) Payment of Solicitors' Accounts

The Committee discussed with the Legal Accounts Officer the fees paid to a solicitor for services rendered in certain civil and criminal matters.

The Committee recommended that a Sub-Committee be established to review with the Legal Accounts Officer, accounts over and above a specified sum. The Committee requested that the Chairman of the Sub-Committee report to the full Committee from time to time on fees paid for legal services with appropriate comments on the fees charged.

## OTTAWA-CARLETON PILOT PROJECT – MINISTRY OF COMMUNITY AND SOCIAL SERVICES FINANCIAL INTERVIEWS

In October, 1975, the Legal Aid Committee recommended, and Convocation approved,a three-month pilot project to speed up the obtaining of an applicant's financial eligibility before a certificate was issued.

Under this project an applicant for legal aid is not subjected to a separate financial interview. A form was designed wherein the applicant gives all necessary information as to legal requirements and financial background. The single form is reviewed not only by the Area Director but by a field officer of the Ministry of Community and Social Services. From this single form it is determined whether or not a certificate should issue.

In January, 1976, the Legal Aid Committee reviewed this project and in view of its obvious success recommended, and Convocation approved, the extension of the said pilot project to the end of March 31st, 1976.

On June 2nd, 1976, the Director received correspondence from James B. Chadwick, Area Director, Ottawa-Carleton, enclosing a report on the experimental programme processing legal aid applications. Recommendations made by Mr. Chadwick were as follows:

"(1) We feel that the programme has been a success and we would recommend its continuation.

(2) I would respectfully suggest that a committee be formed to consider the implementation of both this report and the report from the York County office on a Province wide basis.

(3) I would expect that the Community and Social Services Department, along with the Attorney General's Department, may be prepared to serve on a committee to determine the future role of the assessment officers and the form in which assessments should be made.

(4) It has been obvious from our involvement with the assessment officers in our office that if they were employees of the Law Society or if there was some control over them, that greater use could be made of their time.

(5) I know that the Attorney General's Department and the Ministry of Community and Social Services are also considering this matter and in view of the financial restraints being placed upon the Plan, some consideration should be given to the gross income levels which are used for the assessments."

The Committee recommended that a Sub-Committee be appointed to include a member of the Ministry of Community and Social Services and the Ministry of the Attorney General to review the financial assessment procedures now provided for under the Legal Aid legislation, and where appropriate make recommendations for change.

**SECTION 71 OF THE REGULATION**

Section 71 of the Regulation reads as follows:

> "Except in an area or part of an area exempted from this section by the Legal Aid Committee and subject to Section 72, unless with the prior approval of the Director, no duty counsel or any person associated with him in the practice of law shall knowingly act in the same matter for a person whom he has represented or advised as duty counsel."

The Director received correspondence from J.P. Funnell, Q.C., Area Director, Northumberland & Durham Counties, setting out a resolution passed by the Northumberland & Durham Area Committee on June 15th, 1976, as follows:

> "It was moved that the exemption under Section 71 of the Regulation be rescinded."

The Legal Aid Committee had previously granted an exemption to the Counties of Northumberland & Durham. There are 45 practising solicitors in the Counties of Northumberland and Durham on the Criminal and Civil Duty Counsel Panels.

The Committee recommended that the approval extended under Section 71 of the Regulation be rescinded for Northumberland & Durham Counties.

**SUB-COMMITTEE TO REVIEW THE FUNCTION OF DUTY COUNSEL**

A Sub-Committee was appointed consisting of the following members: Professor A.M. Linden, Chairman; Sidney Linden; Robert J. Carter; David Humphrey; Mrs. Peggy Smyth; Arthur Whealy; to consider the entire function of Duty Counsel as provided for under the Legislation.

The Committee discussed the report and recommended that the said report be received. The Director was requested to have costed the suggested proposals for change. The report is to be re-submitted to the Committee at its August meeting.

**CERTIFICATES TO RECIDIVISTS**

The Attorney General for Ontario wrote the Chairman enclosing his correspondence with the Minister of Justice and Attorney General of Canada, in which he set out the following:

"With respect to recidivists I would not propose that the agreement contain a power to refuse a certificate to an accused solely on the basis of his criminal record or the number of charges outstanding against him. I would propose, rather, that the administrators of the Plan be given a discretion to restrict the number of legal aid certificates which an individual could receive during any given period of time or hold at any one time. This would confer a discretion to refuse further legal aid to an individual who has received a great deal of legal aid assistance in relation to criminal matters over the years or who at any one time is faced with a large number of criminal matters over the years or who at any one time is faced with a large number of criminal charges in respect of which he seeks legal aid."

A meeting was held on Friday, June 18th, 1976, with the Chairman being present and Messrs. G.E. Wallace, Professor A.M. Linden, James B. Chadwick, and J.D. Carnwath, to discuss the above noted correspondence. J.D. Carnwath agreed to prepare a report on the withholding of legal aid from recidivists. Mr. Carnwath reported as follows:

**"HISTORICAL BACKGROUND**

Since the inception of The Ontario Legal Aid Plan, the Plan has not deviated from the original principle of providing legal aid to criminally accused persons who meet the criteria developed by the Plan with respect to both legal and financial eligibility as prescribed by the Act and Regulations.

The delivery of services to such criminally accused persons and on such a basis would appear to have squared with the articulated premise of Government that there should not be in the Province of Ontario, 'one law for the rich and one law for the poor'.

Latterly, there has developed a growing body of opinion which finds it distasteful, if not outrageous, that criminally accused persons with many previous convictions continue to receive Legal Aid. This

opinion appears to be shared by a large portion of the public at large, members of Government and, indeed, members of the legal profession.

**AVAILABLE COST SAVING TO THE ONTARIO LEGAL AID PLAN**

The Legal Aid Committee of The Law Society of Upper Canada has been asked to consider the possibility of cost saving to the Plan by refusing Legal Aid to criminally accused persons who have previously been convicted of a certain number of offences which number (to be determined) would automatically disqualify those persons from receiving further Legal Aid. Such a course of action can only be justified by considering that the amount of monies available for Legal Aid in any one calendar year is finite and that it is preferable from a social justice point of view to allocate those finite funds among persons who are deserving of delivery of Legal Aid services in priority to those criminally accused persons who have accumulated a criminal record of a predetermined nature for definition purposes. If, for example, $10,000,000.00 is available for criminal purposes, then, it is argued, better that 90% of the monies be allocated to first time offenders with 10% to recidivists rather than 50% to first time offenders and 50% to recidivists.

**DISADVANTAGES OF LIMITING LEGAL AID TO RECIDIVISTS**

1. Government would no longer be justified in articulating that legal representation is available to the citizens of Ontario regardless of their inability to pay. There would indeed be one law for the rich and one law for the poor, and, at first glance, legal representation would not be available to recidivists who, in many instances, might require legal representation the most. It is instructive to consider that legally aided recidivists may, if nothing else, receive reduced sentences by virtue of the activity and expertise

of counsel. These reduced sentences presumably save the taxpayers of Canada as a whole whatever it costs to maintain a prisoner for the period reduced.

2. The development of criteria to be applied to determine whether or not a recidivist is entitled to further Legal Aid would be extremely difficult. If the matter is to be left to the discretion of the Area Directors, one can imagine the administrative chaos that might result with forty-six individuals exercising discretion in forty-six different ways. It would seem that statutory or regulatory definitions of a recidivist would have to be developed so that the refusal of Legal Aid would be based on standard uniform practice.

3. At present our criminal justice system is designed to prevent, where possible, the existence of a prior record on the part of a criminally accused person during trial. Should such a person not be represented at trial it would be logical to conclude on the part of the Judge and perhaps the Jury that such person was disqualified from obtaining Legal Aid by virtue of his prior record.

4. The granting of a certificate to an applicant charged under the Criminal Code is not only determined by the legal aid legislation but also governed by the provisions of the Federal Provincial agreement. Limiting the granting of a certificate to a recidivist would have to receive the endorsement of the Minister of Justice in Ottawa.

**ADVANTAGE OF LIMITING LEGAL AID TO RECIDIVISTS**

1. Cost saving. The writer has no knowledge of the potential cost saving and questions whether or not there is sufficient information in the Ontario Legal Aid Plan files to indicate the potential cost saving.

2. The publicity value for Government, if any, by refusing legal aid to recidivists. Presumably this would involve a balancing of that part of the population espousing 'Law and Order' as opposed to that part of the population whose concern lies more with 'Civil Liberties'.

**ROLE OF THE PRIVATE BAR**

It would be an omission not to point out that should Legal Aid be refused to recidivists there would appear to be a responsibility on the part of The Law Society of Upper Canada and its membership to provide representation for those persons charged with criminal offences who are not entitled to Legal Aid by virtue of whatever regulations are established to prohibit recidivists from receiving legal aid."

After review, the Committee recommended that the report be adopted and that the Attorney General be informed that it is the view of the Legal Aid Committee that recidivism should not be a ground for refusal of a legal aid certificate in criminal matters.

**CIVIL CERTIFICATES**

The Committee reviewed a memorandum from the Legal Accounts Officer wherein the issuance of legal aid certificates in civil matters was discussed. The opinion was expressed that a legal aid certificate should not issue in cases where a person would not be willing to spend their own money on a particular action and further that close attention be paid to ensure that the Plan is not financing losing cases, or cases where the recovery is approximately the same as the cost of obtaining the money. It was pointed out that certificates in civil matters are now limited up to Examination for Discovery but this restraint does not resolve many of the difficulties.

The Committee recommended that a Sub-Committee be appointed to develop criteria which Area Directors should use when civil certificates are, in fact, issued.

**STUDENT LEGAL AID SOCIETIES**

In February, 1976, the Legal Aid Committee

recommended, and Convocation approved, that a Criteria Committee be formed which would consist of one member from each Student Legal Aid Society Executive and the Student Legal Aid Society Representative on the Legal Aid Committee and a representative of each Dean. The said Committee was appointed to consider the representations made by the Student Legal Aid Societies and make recommendations to the Legal Aid Committee through the Student Legal Aid Society on an appropriate allocation of the money made available to the Student Legal Aid Societies.

Correspondence was received from the Criteria Committee dated 5th July, 1976, which read as follows:

> "I am writing to advise you that the Criteria Committee of the Ontario Students' Legal Aid Societies met in Toronto on June 19th, 1976.
>
> The Committee members, representing all six Students' Legal Aid Societies and six Ontario Law Deans, unanimously agreed that I should request from you an immediate interim disbursement of $17,000 for each SLAS, for a total interim disbursement of $102,000.
>
> I trust this letter will be sufficient for your purposes and that cheques will issue to the various Deans at your earliest convenience in accordance with the contents of this letter."

The Committee recommended that each of the six Student Legal Aid Societies receive immediately the sum of $17,000 for a total payment of $102,000.

**THE ONTARIO LEGAL AID PLAN**
**RE: PARALEGALS AND PARALEGAL TRAINING**

A meeting was held in June, 1976, by members of the Plan's Administrative Staff, at which time the training of secretaries in the Legal Aid offices throughout Ontario, was discussed. It was the concensus that the Area Directors' assistants in Legal Aid offices throughout Ontario needed training to ensure a high standard of legal aid administration. There is no standard training and there is a great unevenness in the 46 Area Offices throughout Ontario.

The Committee recommended that the Director and the York County Area Director consider with the Sub-Committee already appointed to review the training of native paralegals, under the chairmanship of George E. Wallace, the entire matter of paralegal training and report back to the Committee.

**LEGAL AID PANELS**

In September, 1975, Convocation approved a report calling for a revisal of panels of solicitors under Legal Aid so as to give applicants more information on the experience and practice of the individual solicitors. The report recommended that the revised panels should include:

(a) the number of criminal and/or civil certificates which a solicitor has accepted for the prior fiscal year;

(b) active and passive lists to be established with only the active lists being readily available to the public;

(c) separate active lists should be created for criminal, matrimonial and civil matters other than matrimonial causes;

(d) following each lawyer's name on the active list should be the name of his firm, its address, the number of lawyers in the firm, the firm telephone number, and the year of the lawyer's call to the Bar.

The lists to be first restructured in Toronto.

W.R. Donkin, Area Director, York County, submitted the following report on the new panels put in use in York:

"The new form of panels produced by the computer has been in use in the Legal Aid offices in York since May. When the form of panels was changed the bar was circularized and asked to re-enrol, and were advised that those who did not re-enrol would not be shown on the panels. Further, they were given an opportunity to list their names with Legal Aid for the purpose of being paid accounts, but to have Legal Aid refrain from publishing their names.

In November 1975 we printed the last lists used under the old system and on those lists there were shown 2,467 lawyers on the panel of solicitors willing to accept civil certificates, and 1,819 on the panel of solicitors willing to accept certificates in criminal matters. It is believed to a great degree these lists duplicated each other and that probably there were only about 3,000 lawyers all told on the panels.

On the new panels the total number of lawyers shown is 1,973 including those who wish to accept certificates whether their names are to be published or not, and those who wish to do duty counsel work.

The panels are now broken into three, one being solicitors willing to accept criminal matters, one being solicitors willing to accept matrimonial matters, and one being solicitors willing to accept civil matters other than matrimonial matters. The number of solicitors shown at the present time is – Criminal panel 1,003, Civil panel 1,105, Matrimonial panel 1,054. It is apparent that since the master panel only contains 1,973 names there is considerable duplication in these new lists.

The number of solicitors who have volunteered for duty counsel work is as follows – for civil duty counsel (Family Court or clinics only) 566, for criminal duty counsel only 733, for both civil and criminal 486. It will therefore be seen that we have available for criminal duty counsel work a total of 1,219 people, and for civil duty counsel work 1,052. The total number of people who have volunteered to do duty counsel work of one sort or another is 1,785.

From the standpoint of the usefulness of the lists the clerks report no more difficulty on the part of the applicant in reading the present panels than in reading the old ones.

It would appear that the cost of producing new panels is no greater than producing the old form of panels."

**AREA COMMITTEES**

Section 4 (1) of the Legal Aid Act provides that the Law Society may appoint a Legal Aid Committee for an area.

The Committee recommended the following be appointed a member of the Area Committee in

**LENNOX AND ADDINGTON COUNTIES**

Mr. James E. Madden,
Mr. J.K. Pearce,
Mr. Grant Sexsmith,
Mr. A. John Zado,
Mr. Hubert W. Hogle,
Mr. William Barrett, R.R. No. 3, Napanee.

**RAINY RIVER DISTRICT**

Ben Brown, Native Court Worker, United Native Friendship Centre, Fort Frances.

**MANITOULIN & SUDBURY DISTRICTS**

George Charles Lund, Sudbury.

**RESIGNATIONS:**

**RAINY RIVER DISTRICT**

Murray Donnelly, Fort Frances.

**THE REPORT WAS ADOPTED**

. . . . . .

**THE ONTARIO LAW REFORM COMMISSION – PROFESSIONAL ORGANIZATIONS PROJECT**

The Treasurer drew attention to the Ontario Law Reform Commission's reference from the Attorney General of Ontario to review The Law Society Act, among others. The Treasurer will not sit on the Commission when this matter is before it. The Treasurer has designated the Secretary to carry on the Society's liaison with the Commission. The Treasurer suggested

that he be authorized to appoint a special committee of five members of Convocation with respect to the reference.

It was moved, seconded and *carried* that the Treasurer be authorized to appoint a special committee with respect to the Professional Organizations Project of the Ontario Law Reform Commission.

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**CONVOCATION ROSE AT 11:50 A.M.**

. . . . . .

Read in Convocation and confirmed 17th September, 1976.

W. GIBSON GRAY

Treasurer

THE LAW SOCIETY OF UPPER CANADA

# Minutes of Convocation

Volume 1 Number 5

Members wishing to receive the Minutes of Convocation are asked to complete the form below and send it to the Society.

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The Secretary,
The Law Society of Upper Canada,
Osgoode Hall,
Toronto, Ontario
M5H 2N6

I would like to receive the Minutes of Convocation at the address below:

Name .....

Address .....

.....

.....

# MINUTES OF CONVOCATION
## (ABRIDGED)

Friday, 17th September, 1976
10:00 a.m.

**PRESENT:**

The Treasurer (Mr. W. Gibson Gray) and Messrs. Bowlby, Brulé, Bynoe, Carnwath, Carrier, Carthy, Cartwright, Cass, Chadwick, Common, Cooper, Evans, Farquharson, Fennell, Finlayson, Furlong, R.J.S. Gray, Ground, Henderson, Mrs. Legge, Messrs. Levinter, Montgomery, O'Brien, Pallett, Pepper, Seagram, Sheard, Shepherd, Shibley, Strauss, Mesdames Sutherland and Tait, Messrs. Tobias, Wallace, Wilson and Zahoruk.

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**MINUTES**

The Minutes of Convocation of 18th and 25th June, 1976 and of Special Convocation of 27th July, 1976 were read and confirmed.

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**FEDERATION OF LAW SOCIETIES OF CANADA – APPOINTMENT OF REPRESENTATIVE**

It was moved, seconded and *carried* that the *Secretary* be appointed as one of the Society's representatives to the Federation of Law Societies of Canada to fill the vacancy caused by the resignation of Mr. G.F. Henderson.

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**THE LAW FOUNDATION OF ONTARIO – APPOINTMENT OF TRUSTEE**

It was moved, seconded and *carried* that Mr. *P.B.C. Pepper* be appointed as one of the Society's Trustees on The Law Foundation of Ontario to fill the vacancy caused by the

resignation of Mr. A.E. Shepherd.

. . . . . .

**SPECIAL COMMITTEE ON SPECIALIZATION IN THE PRACTICE OF LAW**

The Treasurer announced that he had reactivated this Special Committee and added Mr. Finlayson to it as a member. The Special Committee is constituted as follows: Messrs. Goodman (Chairman), Cooper, Fennell, Finlayson, Henderson, Shepherd and Thom, together with three law professors appointed by the Committee of Law Deans, Professors Soberman, Spence and Mewett; and one member appointed by the Vice-President of the Ontario Section of the Canadian Bar Association, Mr. Stuart P. Webb.

. . . . . .

**APPOINTMENT OF SPECIAL COMMITTEE ON THE ONTARIO LAW REFORM COMMISSION – PROFESSIONAL ORGANIZATIONS PROJECT**

The Treasurer announced that in accordance with the authority given him by Convocation on 27th July, 1976, he had appointed a Special Committee with respect to the Professional Organizations Project of The Ontario Law Reform Commission constituted as follows: Messrs. Thom (Chairman), Bowlby, Brulé, Finlayson and Henderson.

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**MEETING OF CHAIRMEN AND VICE–CHAIRMAN OF STANDING COMMITTEES WITH REPRESENTATIVES OF COUNTY AND DISTRICT LAW ASSOCIATIONS AND OF APPROVED LAW SCHOOL FACULTIES**

The Treasurer informed Convocation that he had chosen Friday, 3rd December, 1976, beginning at 10:00 a.m., in the Third Floor Lounge at Osgoode Hall, as the time and place for the meeting of the Chairmen and Vice-Chairmen of Standing

Committees of the Society with representatives of the County and District Law Associations and of the approved Law School Faculties.

. . . . . .

**BUILDING PROGRAMME –**
**LAND TO BE ACQUIRED IN NORTH COURT**

The Treasurer reported to Convocation with respect to the 320 square feet of land lying between the Government's part and the Society's part of Osgoode Hall that agreement had been reached with the Government to sell it to the Society at the amount of the valuation obtained by the Society, namely, $10,000, and that the Society's solicitor, Mr. John Howard, had been instructed to proceed with the transaction.

. . . . . .

**MOTION: ANNUAL MEETING –**
**VOTING BY PROXY**

Mr. Furlong, having given notice to Convocation on 25th June, 1976, that he would present to the September Convocation a resolution respecting voting by proxy at meetings of members of the Society, moved, seconded by Mr. Carnwath,

THAT pursuant to Section 54(17) of The Law Society Act and further to Rule 52 made thereunder, Convocation make a rule respecting voting by proxy at meetings of members of the Society in the following terms:

(1) Every member of the Society entitled to vote at any meeting of the members of the Society may, by means of a proxy, appoint a person being a member, as his or her nominee to attend and act at the meeting in the manner, to the extent and with power conferred by the proxy.

(2) A proxy shall be executed by the member or his attorney authorized in writing, and ceases to be valid 90 days after its date.

(3) A proxy shall contain the date thereof and the appointment and name of the nominee and may contain a

revocation of a former proxy and restrictions, limitations or instructions on the manner in which any vote is to be made.

(4) In addition to revocation in any other manner permitted by law the proxy may be revoked by instrument in writing executed by the member or by his attorney authorized in writing, and deposited either at the office of the Secretary of the Society at any time up to and including the last business day preceding the day of the meeting or any adjournment thereof at which the proxy is to be used or with the Chairman of such meeting on the day of the meeting or adjournment thereof, and upon either of such deposits, the proxy is revoked.

(5) Convocation may by resolution fix a time not exceeding 48 hours, excluding Saturdays and holidays, preceding any meeting or adjourned meeting of members before which proxies to be used at such meeting must be deposited with the Secretary and any time so fixed shall be specified in a notice calling the meeting.

(6) The form of proxy shall provide means whereby a member may specify that his vote shall be exercised by the nominee in favour of or against each matter or group of related matters identified therein or in a notice of the meeting as intended to be acted upon by the meeting, provided that a proxy may confer discretionary authority with respect to such matters or any other matter.

(7) If the form of proxy contains a designation of a named person as a nominee the means shall be provided whereby the member may designate in the form of proxy some other person, being a member, as his nominee.

(8) Proxy means a completed and executed form of proxy by means of which a member has appointed a person as his nominee to attend and act for him and on his behalf at a meeting of members.

It was moved, seconded and *carried* that Mr. Furlong's motion be referred to the Special Committee on Convocation and the Election of Benchers for its consideration and recommendation.

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## ADMISSIONS COMMITTEE–Mr. Pepper

Mr. P.B.C. Pepper, Chairman, presented that portion of the Report of the Admissions Committee of its meeting on Thursday, 9th September, 1976, with respect to four applications for Call to the Bar as follows:

### CALL TO THE BAR AND CERTIFICATE OF FITNESS

#### Bar Admission Course

The following candidate having successfully completed the Seventeenth Bar Admission Course, filed the necessary documents and paid the required fee of $210, applied for Call to the Bar and to be granted a Certificate of Fitness:

John David Barker

*Approved*

#### Special

The following candidates having filed the necessary papers, complied with the requirements of the Admissions Committee in each case and paid the required fee of $200, are entitled to be called to the Bar and to be granted Certificates of Fitness:

| | |
|---|---|
| Barry Joel Reiter | Special – Faculty of Law, University of Toronto |
| Michael Mandel | Special – Osgoode Hall Law School, York University |

*Approved*

### CALL TO THE BAR FOR OCCASIONAL APPEARANCE

At its meeting on 9th September, 1976 the Admissions Committee recommended that the following be allowed to proceed under the Admissions Committee's Regulation 10 concerning "Occasional Appearances in Ontario of Lawyers from other Provinces" and that upon giving the necessary undertakings he be called to the Bar and admitted as a solicitor:

| | |
|---|---|
| Bruno J. Pateras | Province of Quebec |

*Approved*

**THAT PORTION OF THE REPORT WAS ADOPTED**

. . . . . .

**CALL TO THE BAR**

The following candidates were presented to the Treasurer and Convocation and were called to the Bar, and the degree of Barrister-at-law was conferred upon each of them by the Treasurer:

John David Barker
Barry Joel Reiter
Michael Mandel
Bruno J. Pateras

. . . . . .

## LEGAL EDUCATION COMMITTEE–Mr. Finlayson

Mr. G.D. Finlayson, Chairman, presented the Report of the Legal Education Committee of its meeting on Thursday, 9th September, 1976.

The following members were present: Mr. G.D. Finlayson, Chairman, Mr. J.D. Ground, Vice-Chairman, and Messrs. Brulé, Carthy, Cartwright, R.J. Gray, Kellock, Shibley, Thom, and Mrs. Tait.

**FACULTY APPOINTMENTS:**
**(Toronto, Ottawa and London, as indicated)**

It was recommended that the following appointments be made for the teaching term which commenced September 7, 1976, in Toronto:

(a) Real Estate and Landlord and Tenant Section:

To continue as Head of Section, D.H.L. Lamont, Q.C.

Group Instructors (Osgoode Hall): P.A. Adams, Q.C., D.A. Allport, M.H. Appleton, L.D. Barsky, T.H. Bjarnason, Mrs. J.S. Brown, K.J.C. Dean, J. Freyseng, D.G. Friend, Q.C., Michael Garvey, L.M. Hess, K.N. Karp, Miss Miriam A. Kelly, A.C. Knox, B.J.M. Lorenz, H.D. Marks, E.N.

Merkur, Paul Merrick, David Milman, C.T. Morra, M.J. Mowbray, Miss E. Carol Peifer, Chris Stoyan, V.M. Saccucci, R.W.J. Seyffert, W.R. Stevenson, P.H.G. Walker, Q.C., R.C. Watt.

Group Instructors (Ottawa): Abraham Feinstein, D.H. Hill, Daniel Kimmel, Mrs. Judith Oyen, J.M. Patenaude, F.G. Tanner.

Stand-by Instructors (Osgoode Hall): D.R. Angelson, C.H. Foster, J. Prince, W.M. Traub, G.T. Tsampalieros, D.F. Winer.

Stand-by Instructor (Ottawa): G.R. Simser.

(b) Accounting & Analysis of Financial Statements Section:

To continue as Head of the Section, J. Charles Vincent, C.A.

Group Instructors (Osgoode Hall): Elliot Berlin, S.M. Borraccia, D.M. Brans, Robert Caplan, Joseph Cappe, W.P. Cipollone, David Franklin, R.B. Freeman, A.M. Gans, Stanley Joffe, Robert Karoly, P.F. Marchildon, A.F. Marshall, W.T. Pashby, J.W. Peace, W.R. Rauenbusch, R.N. Siddall, D.S. Solomon, Harvey Storm, Larry Torkin, A.B. Tulk.

Group Instructors (London): G.D. Cudmore, R.W. Davis, C.A., Peter Noble, F.C. Smeenk.

Stand-by Instructors (Osgoode Hall): L.S. MacGregor, W.T. Perks.

Stand-by Instructors (London): W.E. Davies, C.A., R.A. Dolphin, C.A.

Income Tax Section:

To continue as Head of the Section, A.R.A. Scace.

Group Instructors (Osgoode Hall): H.J. Alpert, Ron Appleby, D.C. Champagne, G.E. Cooper, G.J. Corn, L.G. Dillinger, D.S. Ewens, N.H. Harris, P.H. Harris, H.J. Knowles. Earl Miller, Ron Miller, M.A. Mogan, D.C. Nathanson, A.M. Pilling, A.M. Schwartz, W.S.R. Seyffert, Joel Shafer, J.D. Sharples, S.M. Sigel, J.M. Solurch, Sol Spiro, T.A. Sweeney, R.B. Thomas, J.G. Ware, Tom Weisz,

R.G. Witterick, T.H. Young.

Group Instructors (Ottawa): Gordon Cleland, Sidney Goldstein, W.J.A. Hobson, H.G. McKenzie, G.F. Rip, Bernard Shinder.

Group Instructors (London): W.E. Beattie, Phillip Bowman, C.A., J.W. Dunlop, J.A. Giffen.

Stand-by Instructors (Osgoode Hall): W.J. Beach, S.M. Borraccia, F.E. Campbell, Brian Carr, L.R. Hepburn, J.M. Parks, Samuel Schwartz, W.E. Shaw, A.B. Waugh.

Stand-by Instructor (Ottawa): L.F.O. Raphael.

Stand-by Instructor (London): Ross Batson, C.A., D.L. McLennan, Q.C.

It was recommended that the following appointments be made for the teaching term which commenced September 7th, 1976, in Ottawa to continue as Senior Instructors:

| | | |
|---|---|---|
| L.J. Rasmussen | – | Real Estate and Landlord and Tenant Section |
| D.C. Gavsie | – | Income Tax Section |
| Kenneth Radnoff | – | Civil Procedure II Section |
| W.D. Chilcott, Q.C. | – | Criminal Procedure Section |
| G.R. Morin | – | Civil Procedure I Section |
| A. de Lotbiniere Panet | – | Accounting and Analysis of Financial Statements |

*Approved*

**STUDENT RECEPTIONS (Toronto, Ottawa and London)**

In anticipation of the continuation of Law Society receptions for students in the teaching term of the Bar Admission Course it was suggested that they be held from 5:00 to 7:00 o'clock on the following dates:

Thursday, October 14th, 1976 (Osgoode Hall)
Wednesday, October 20th, 1976 (Ottawa)
Thursday, November 4th, 1976 (Osgoode Hall)
Tuesday, November 23rd, 1976 (London)

Monday, December 13th, 1976 (Osgoode Hall)
Thursday, January 20th, 1977 (Osgoode Hall)
Wednesday, January 26th, 1977 (Ottawa)
Tuesday, February 8th, 1977 (London)
Thursday, February 10th, 1977 (Osgoode Hall)

*Approved*

**DESTRUCTION OF EXAMINATION ANSWER BOOKLETS**

The direction of the Committee was required for the destruction of the examination booklets and computer cards of the 17th Bar Admission Course which concluded February 1976, with the exception of such records of students who failed the course.

*Approved*

**BAR ADMISSION COURSE EXAMINATIONS**

In accordance with the prior direction of the Committee (April 1976) the examinations in the 1976-77 teaching term will be composed, so far as may be practicable, of questions requiring written answers as well as multiple choice questions. It was proposed that multiple choice questions would be answered on a duplicate answer sheet composed of an original and a copy and that the candidates be permitted to retain the copy. It was further proposed that all multiple choice questions must be returned with the original answer sheet and that failure to return the questions would result in the multiple choice questions not being marked. It was further proposed that after each examination which included multiple choice questions the candidates be given the correct answer key for such questions. The candidates would thereby be able to mark their own multiple choice questions and at the same time the questions themselves would not be published and distributed thereby rendering them of no further use. The Committee was asked to approve this policy.

*Approved*

**BAR ADMISSION COURSE AND CONTINUING EDUCATION**

The Committee dealt with a number of special petitions and requests; and approved revised estimates for the

forthcoming year with respect to the Bar Admission Course and Continuing Education.

**THE REPORT WAS ADOPTED**

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## ADMISSIONS COMMITTEE (Continued)

Mrs. L.L. Legge, Vice-Chairman, presented the remainder of the Report of the Admissions Committee of its meeting on Thursday, 9th September, 1976.

The following members were present:, Mr. P.B.C. Pepper, Chairman, Mrs. L. L. Legge, Vice-Chairman, and Messrs. Finlayson, R.J. Gray, Ground, White and Mrs. Sutherland.

### ADMISSION OF STUDENTS–AT–LAW

#### Bar Admission Course

A total of 515 candidates, having complied with the relevant Regulations, paid the required admission fee of $101 and filed the necessary papers, applied for admission to the Law Society as students-at-law in the Bar Admission Course under Regulation 26(5) as of 1st September, 1976.

A total of five candidates, having complied with the relevant Regulations, paid the required admission fee of $101 and filed the necessary papers, applied for admission to the Law Society as students-at law in the Bar Admission Course as of 1st September, 1975. One candidate, a solicitor from the United Kingdom, applied under former Regulation 5. Two applied under Regulation 26(4b) and (5) and two applied under Regulation 4 respecting transfer from other provinces.

*Approved*

### DIRECT TRANSFER

The Committee considered and approved three applications to transfer to practise in Ontario by lawyers from other common law provinces of Canada.

The Committee considered and approved an application to transfer to practise in Ontario by a lawyer from Quebec.

**BAR ADMISSION COURSE**

The Committee considered four applications by applicants who wished to enter the Bar Admission Course on the strength of LL.B. degrees obtained from approved law schools, all of whom sought permission to vary the articling requirements. The applications were approved subject to the approval of the Legal Education Committee with respect to articling.

**FULL–TIME MEMBERS OF THE FACULTIES OF APPROVED LAW SCHOOLS**

The following members of approved law faculties asked to be called to the Bar and admitted as solicitors without examination under Regulation 9 respecting full-time members of approved Law Faculties in Ontario upon payment of a fee of $200. Letters confirming the eligibility of the applicants have been received from the Deans of the relevant law schools.

| | |
|---|---|
| William Neil Brooks | B.A. University of Alberta 1966:<br>LL.B. University of British Columbia 1969 |
| Ian Alexander Hunter | B.A. University of Toronto 1966;<br>LL.B. University of Toronto 1969 |
| Michael Mandel | LL.B. Osgoode Hall Law School 1972;<br>B.C.L. Oxford University 1973 |
| Beverley Baines Wilson | B.A. McGill University 1962;<br>LL.B. Queen's University 1973 |

*Approved*

**READMISSION**

*Martha Babych-Trofimenko* was called to the Bar in Ontario in April 1962. She accepted an appointment as an Assistant Professor-of-law at the University of Delaware in the United States and moved there in 1968. Upon becoming a United States citizen her membership in the Law Society of Upper Canada was revoked. Mrs. Babych-Trofimenko returned to Canada and sought readmission to the Law Society upon

obtaining her Canadian citizenship.

*Approved*

**OCCASIONAL APPEARANCES**

*Pierre Lamontagne* of the Province of Quebec applied to proceed under Section 10 of the Regulation "Occasional Appearances in Ontario" of lawyers from other Provinces in the case of *Her Majesty The Queen v. Henry Birks & Sons Limited.* Mr. Lamontagne complied with the requirements of Section 10 of the Regulations, and presented a Certificate of Good Standing.

*Approved*

*Bruno J. Pateras* of the Province of Quebec applied to proceed under Section 10 of the Regulation "Occasional Appearances in Ontario" of lawyers from other Provinces in the case of *The Queen v. Louis de Gonzaque Giguere* in the "Sky Shops affair". Mr. Pateras, having complied with the requirements of Section 10 of the Regulations, asks to receive his call to the Bar of Ontario at the September Convocation.

*Approved*

**REPORT OF THE EXAMINING BOARD**

The report of the examination held in September, 1976 was before the Committee. Six candidates sat the examination. Four passed and two failed. The Committee approved the report.

**EXTERNAL EXAMINATIONS**

Four candidates were approved by the Committee to proceed under Regulation 4(2) and former Regulation 5. One sat the required examination in England and three at Osgoode Hall.

The report of the examiners was before the Committee. Three candidates passed and one failed. The Committee adopted the report.

**THE REPORT WAS ADOPTED**

. . . . . .

**CONVOCATION ADJOURNED FOR LUNCHEON AT 12:45 P.M.**

. . . . . .

The Treasurer and Benchers had as their guests for luncheon The Honourable Arthur Kelly, recently retired Judge of the Supreme Court of Ontario, Court of Appeal, now Chairman of the Attorney General's Committee on the Appellate Jurisdiction of the Supreme Court of Ontario, and The Honourable Mr. Justice R.C. Rutherford, a Judge of the Supreme Court of Ontario and formerly a Bencher of the Society. Mr. Kelly was called to the Bar on 13th September, 1923 and on resuming his membership in the Society became eligible for life membership. The Treasurer presented Mr. Kelly with his Certificate of Life Membership.

. . . . . .

**CONVOCATION RESUMED AT 2:30 P.M.**

. . . . . .

**PRESENT:**

The Treasurer and Messrs. Bowlby, Carnwath, Carrier, Carthy, Cartwright, Cass, Chadwick, Farquharson, Fennell, Finlayson, Furlong, R.J.S. Gray, Ground, Henderson, Mrs. Legge, Messrs. Levinter, Montgomery, O'Brien, Pallett, Pepper, Seagram, Shepherd, Shibley, Mesdames Sutherland and Tait, and Mr. Tobias.

. . . . . .

**FINANCE COMMITTEE—Mr. Shepherd**

Mr. A.E. Shepherd, Chairman, presented the Report of the

Finance Committee of its meeting on Thursday, 9th September, 1976.

The following members were present: Messrs. Shepherd (Chairman), Brulé, Fennell, Ground, Pallett and Pepper.

## ROLLS AND RECORDS

### *Appointments to the Bench*

The following members have been honoured by their appointment to judicial office and their membership in the Society will be placed in abeyance upon their assuming office:

| | |
|---|---|
| John Drew Hammersly Hudson, Q.C.<br>Toronto | Called – 22 June 1960<br>Appointed County & District Judge, Judicial District of York – 20 May 1976 |
| Hugh Russell Locke, Q.C.<br>Toronto | Called – 24 June 1954<br>Appointed County & District Judge, Judicial District of York – 20 May 1976 |
| Gerald Foster Kinsman, Q.C.<br>Sudbury | Called – 17 November 1949<br>Appointed County & District Judge, District of Kenora – 20 May 1976 |
| Edward Gordon McNeely, Q.C.<br>Oshawa | Called – 21 June 1951<br>Appointed County Court Judge, County of Wellington – 20 May 1976 |
| David Lawrence McWilliam<br>Ottawa | Called – 25 March 1966<br>Appointed County & District Judge, Judicial District of Niagara North – 20 May 1976 |
| James Arthur Mullen, Q.C.<br>Ottawa | Called – 29 June 1950<br>Appointed County Court Judge, County of Perth – 20 May 1976 |
| McLeod Archibald Craig, Q.C.<br>Owen Sound | Called – 18 April 1946<br>Appointed Judge, S.C.O., High Court of Justice – 21 May 1976 |
| John Holland, Q.C.<br>Windsor | Called – 29 June 1948<br>Appointed Judge, S.C.O., High Court of Justice – 21 May 1976 |

| | |
|---|---|
| Robert Campbell Rutherford, Q.C.<br>Toronto | Called – 28 September 1950<br>Appointed Judge, S.C.O., High Court of Justice – 21 May 1976 |
| Donald Robert Steele, Q.C.<br>Toronto | Called – 29 June 1949<br>Appointed Judge, S.C.O., High Court of Justice – 21 May 1976 |
| Francis Xavier Fay<br>Toronto | Called – 21 March 1969<br>Appointed Provincial Judge, Criminal Division, Judicial District of York – 25 June 1976 |
| Sydney Malcolm Harris, Q.C.<br>Toronto | Called – 18 June 1942<br>Appointed Provincial Judge, Criminal Division, Judicial District of York – 25 June 1976 |
| Jack Joseph Belobradic, Q.C.<br>Toronto | Called – 20 September 1956<br>Appointed Provincial Judge, Criminal Division, Judicial District of York – 25 June 1976 |
| Miss Elizabeth Ann Robson, Q.C.<br>Burlington | Called – 29 June 1949<br>Appointed County & District Judge, Counties & Districts of Ontario – 30 June 1976 |
| George Stephen Plow Ferguson, Q.C.<br>Toronto | Called – 29 June 1948<br>Appointed County Court Judge, Judicial District of York – 19 July 1976 |
| Walter John Rapson, Q.C.<br>Toronto | Called – 19 September 1946<br>Appointed County Court Judge, Judicial District of York – 30 June 1976 |
| Mrs. Rosalie Silberman Abella<br>Toronto | Called – 24 March 1972<br>Appointed Provincial Judge, Family Division, County of York – 30 June 1976 |
| Cecil Ross Ball<br>Toronto | Called – 26 March 1965<br>Appointed Provincial Judge, Family Division, County of York – 12 July 1976 |

| | |
|---|---|
| Reid Scott, Q.C.<br>Toronto | Called – 21 June 1951<br>Appointed Provincial Judge, Criminal Division, County of York – 30 June 1976 |
| Fredrick Douglas White<br>Toronto | Called – 19 June 1952<br>Appointed Provincial Judge, Criminal Division, County of York – 30 June 1976 |
| Arthur Peter Nasmith<br>Napanee | Called – 17 March 1967<br>Appointed Provincial Judge, Family Division, Judicial District of York – 7 July 1976 |
| Douglas Alexander Bean<br>Kitchener | Called – 19 April 1963<br>Appointed Provincial Judge, Family Division, Judicial District of Waterloo – 17 July 1976 |
| John Duncan Bark, Q.C.<br>Peterborough | Called – 19 April 1963<br>Appointed Provincial Judge, Criminal Division, Judicial District of Norfolk – 21 July 1976 |
| Jack Sol Climans<br>Toronto | Called – 27 June 1957<br>Appointed Provincial Judge, Criminal Division, Judicial District of York – 21 July 1976 |
| Bernard William Hurley, Q.C.<br>Belleville | Called – 29 June 1950<br>Appointed County Court Judge, County of Lennox and Addington – 15 July 1976 |
| John Leslie Menzies, Q.C.<br>London | Called – 25 June 1959<br>Appointed Provincial Judge, Criminal Division, County of Middlesex – 3 August 1976 |
| Donald John MacMillan<br>Cambridge | Called – 10 April 1964<br>Appointed Provincial Judge, Criminal Division, Judicial District of Waterloo – 3 August 1976 |
| James Thomas Robson, Q.C.<br>Toronto | Called – 25 June 1953<br>Appointed Provincial Judge, Family Division, Judicial District of York – 28 July 1976 |

| | |
|---|---|
| Hugh Datus Garrett, Q.C.<br>Sarnia | Called – 18 November 1948<br>Appointed Judge, S.C.O., High Court of Justice – 19 July 1976 |

*Appointment as Master*

| | |
|---|---|
| Howard Garfield<br>Toronto | Called – 16 September 1960<br>Appointed Master, Supreme Court of Ontario – 2 February 1976 |

*Noted*

*Deaths*

The following members have died:

| | |
|---|---|
| Henry Norman Bawden, Q.C.<br>Gormley<br>(Life Member) | Called – 25 May 1923<br>Deceased – 19 March 1976 |
| Walter Benjamin Cowan, Q.C.<br>Toronto<br>(Life Member) | Called – 18 May 1916<br>Deceased – 9 June 1976 |
| Harold Massey<br>Toronto | Called – 18 June 1931<br>Deceased – 28 May 1976 |
| Robert John Fraser Batt<br>Ottawa | Called – 20 February 1959<br>Deceased – 9 June 1976 |
| McGregor Young<br>Mississauga | Called – 20 June 1935<br>Deceased – February 1976 |
| William Walker Fair<br>New Hamburg<br>(Life Member) | Called – 9 October 1919<br>Deceased – 9 July 1976 |
| John Richard Corkery, Q.C.<br>Peterborough<br>(Life Member) | Called – 13 September 1912<br>Deceased – 9 July 1976 |
| Lewis Milne Freeman, Q.C.<br>Toronto | Called – 15 June 1944<br>Deceased – 15 July 1976 |
| Arnon Wyles Burt, Q.C.<br>Toronto<br>(Life Member) | Called – 22 May 1919<br>Deceased – 25 July 1976 |
| Herbert Lance Fruitman<br>Toronto | Called – 18 November 1937<br>Deceased – August 1976 |
| Peter William Georgas<br>Toronto | Called – 24 June 1954<br>Deceased – 27 August 1976 |

| | |
|---|---|
| Wallace Rankine Nesbitt<br>Toronto | Called – 21 January 1932<br>Deceased – 28 August 1976 |
| Albert Serre<br>Ottawa | Called – 18 September 1930<br>Deceased – 3 January 1976 |
| Alvin Wilson Sillery<br>Seaforth | Called – 29 September 1945<br>Deceased – 9 July 1976 |
| David James Thomas, Q.C.<br>Toronto | Called – 18 September 1947<br>Deceased – 23 August 1976 |
| George Moran Mace, Q.C.<br>Toronto | Called – 25 June 1953<br>Deceased – 15 August 1976 |
| Harald Joseph Mattson<br>Kitchener | Called – 26 June 1958<br>Deceased – 19 August 1976 |
| Henry Samuel Rosenberg, Q.C.<br>Toronto<br>(Life Member) | Called – 13 September 1923<br>Deceased – 3 August 1976 |
| Robert Alan Scott, Q.C.<br>Toronto | Called – 27 June 1957<br>Deceased – 4 September 1976 |
| John Richard Houston, Q.C.<br>Toronto | Called – 23 June 1955<br>Deceased – 4 September 1976 |

*Noted*

*Disbarment*

The following former member was disbarred and struck off the rolls and his name was removed from the rolls and records of the Society:

| | |
|---|---|
| James Heatly Pearson<br>Toronto | Called – 20 October 1961<br>Disbarred – Convocation<br>27 July 1976 |

*Noted*

**MEMBERSHIP RESTORED**

*The Hon. Walter Frank Schroeder, Q.C.* gave notice under section 31 that he had retired as a Justice of the Court of Appeal for Ontario and wished to be restored to the Rolls of the Law Society. Accordingly, his membership was restored on 30th June, 1976. He became a Life Member of the Society, having been called on 20th November, 1924.

*Sherburne Tupper Bigelow, Q.C.* of Toronto, gave notice under section 31 that he had retired as a Judge of the Provincial

Court (Criminal Division) and wished to be restored to the Rolls of the Law Society. Accordingly, his membership was restored effective 2nd July, 1976.

*Noted*

**MEMBERSHIP UNDER RULE 50 – RETIRED MEMBERS**

The following members, who are sixty-five years of age or over and who are fully retired from the practice of law and other employment, requested permission to continue their membership in the Society at a reduced annual fee of $25.00:

| | |
|---|---|
| Joseph Augustus Cosentino, Q.C. | Weston |
| John Albert Bradshaw | Peterborough |

*Approved*

**LIFE MEMBERS**

Pursuant to Rule 49, the following became Life Members of the Society in 1976:

| | |
|---|---|
| Reuben Rodness | Toronto |
| Miss Margaret Paton Hyndman, Q.C. | Toronto |
| Max Lewis | Toronto |
| John McDermot Coutts | Thamesville |
| Charles Thomas Sheridan Evans, Q.C. | Bradford |
| John Alan Charles MacRobie, Q.C. | Toronto |
| Evan Mansfield Begg | Mississauga |
| Gordon Alexander Fraser, Q.C. | Niagara Falls |
| Herman Milton Rogers, Q.C. | St. Catharines |
| Royden George Start, Q.C. | Ingersoll |
| William Ernest Middleton Lee, Q.C. | Goderich |
| Ormonde Herbert Barrett | Montreal |
| Frederick Francis Waddell | London |
| Herman Moscoe, Q.C. | Toronto |
| Ernest Gordon Gowling, Q.C. | Ottawa |
| Harold Arthur Sanders, Q.C. | Jackson's Point |
| John Labatt Reid, Q.C. | Barrie |
| Clarence Powell Arnold, Q.C. | Chatham |
| Harold Stanley Chaplin, Q.C. | Toronto |
| William Rae Tomlinson, Q.C. | Port Elgin |
| John Leslie Prentice, Q.C. | Willowdale |
| Angus William MacMillan | Windsor |
| Stewart Gordon Robertson, Q.C. | Belleville |

| | |
|---|---|
| Kenneth Marshall Stiver, Q.C. | Newmarket |
| John Grudeff, Q.C. | Toronto |
| Hon. Walter Edward Harris, Q.C. | Markdale |
| William John McBurney, Q.C. | Niagara Falls |
| Walter John McGibbon, Q.C. | Waterloo |
| Albert Anthony Marck, Q.C. | Dundas |
| H. Patrick Marck | Hamilton |
| Miss Bertha May Hawkins, Q.C. | Toronto |
| Arthur James Nash | Dundas |
| Reginald George Thomas, Q.C. | Lindsay |
| Frank Alistair McHardy-Smith | London |
| Andrew Edward McKague, Q.C. | Toronto |

*Noted*

**CHANGE OF NAME**

*Mary Anne Patricia McNeill,* a student member, requests that her name be changed on the Rolls of the Society to Mary Anne-Patricia *Logan,* her married name.

*Belinda Anne Kirkwood Rabinovitch,* a student member, requests that her name be changed on the Rolls of the Society to Belinda Anne *Kirkwood-Rabinovitch.*

*Stanley Bruce Beshunsky-Smith,* a student member, requests that his name be changed on the Rolls of the Society to Stanley Bruce *Bush.* His petition was before the Committee together with a copy of the Order of His Honour Judge Stortini dated 17th May, 1976.

*Arunas Antanas Vaiceliunas,* a student member, requests that his name be changed on the Rolls of the Society to Arunas *Anthony Vale.* His petition was before the Committee together with a copy of the Order of His Honour Judge Cornish dated 20th May, 1976.

*Holly Margaret Joan Davidson,* a solicitor practising in Toronto, requests that her name be changed on the Rolls of the Society to Holly Davidson *Millen,* thus including her married name.

*Approved*

**ANNUAL FINANCIAL STATEMENT**

A draft Financial Statement for the year ended June 30th, 1976, was before the Committee for consideration. The Secretary was asked to make some changes which are to be incorporated in a revised draft.

**ANNUAL FEES**

The Committee recommended that the Annual fees for the fiscal year 1976/77 be $195.

**AUDITOR'S ACCOUNT**

Clarkson, Gordon & Company have submitted an account for work in connection with the preparation of alternative financial statements. Their fee of $3,000 has been approved by the Chairman and the Committee was asked to ratify this approval.

*Approved*

**COUNSEL'S ACCOUNT**

An account from Mr. R.J. Rolls, Q.C. in the amount of $782.30 in connection with the admission requirements of a student member was approved by the Chairman and was before the Committee for ratification.

*Approved*

**BARRISTERS' DINING ROOM**

In accordance with the arrangement under which the Society guaranteed Mrs. Prince a minimum income of $160 per week, a payment of $2,332 was due to her for the six months ended June 30th, 1976. The Committee was asked to approve this payment.

*Approved*

**LIBRARIES AND REPORTING COMMITTEE**

The Libraries and Reporting Committee approved the addition of a second Xerox machine in the Great Library on a 60-day trial basis to improve copying service available to the profession. The cost of the new machine (a coin operated Xerox

3100 Copier) is $180 per month.

*Approved*

**THE REPORT WAS ADOPTED**

. . . . . .

**MOTION: ANNUAL FEE 1976-77**

It was moved, seconded and *carried* that the annual fee for membership in the Society for the fiscal year 1976-77 be $195, exclusive of Compensation Fund levy.

. . . . . .

**SPECIAL COMMITTEE ON ERRORS AND OMISSIONS INSURANCE**

Mr. J.J. Carthy, Chairman, presented a Report, dated 15th September, 1976, of the Special Committee on Errors and Omissions Insurance.

The Committee reported to a Special Convocation on the 25th of June recommending that Convocation authorize a programme of compulsory Errors and Omissions Insurance to cover the practising members of the Bar commencing January 1st, 1977, upon the expiry of the current Lloyd's policy on the following basis:

> A deductible of $5,000, the next $95,000 to be funded by the Society and stop loss insurance to be obtained against the aggregate payments in any year exceeding $2,000,000 so as to protect the Society's fund against depletion; the levy to be charged the practising members of the profession to total $375.

Convocation adopted the report in principle subject to assurance that stop loss insurance is available, that excess insurance continue to be available as it is now and to the Society having the legal power to carry out the recommendations contained in the report.

The Committee retained Mr. W.L.N. Somerville, Q.C. whose advice is that the Society cannot legally implement the

Committee's recommendations pursuant to Section 53 of the Law Society Act. In Mr. Somerville's view a fair reading of Section 53 presupposes that there will be a licensed insurer involved in any insurance programme. He is of opinion that Sub-sections 20(1) and (3) of Part II of the Insurance Act put beyond question that the plan your Committee proposed would involve the Society carrying on the business of an insurer in Ontario. He points out that the Society does not come within the exemptions the Act provides for nor has it the attributes needed to qualify it to hold a license as an insurer in Ontario. His opinion goes on to state that the Law Society could, without additional statutory powers, implement an arrangement similar to what is done in Alberta and British Columbia whereby there would be an insurance contract by a licensed insurer made with the Society in favour of its members, each of whom receive a certificate of the insurance taken out on his behalf.

Your Committee made the recommendations contained in its June report on the basis of information supplied by J.H. Minet & Co. (Canada) Ltd., its brokers, respecting the availability of insurance coverage for the $75,000 in excess of $25,000 and on the basis of this advice felt obliged to recommend that the Society become 100% self-insured.

The Committee met at 3 o'clock on the 9th of September, the following members being present: Mr. Carthy in the Chair with Mrs. Legge and Mr. Wallace. The Chairman reviewed the circumstances as they had developed since the Committee reported to Convocation in June.

The Committee recommended that:

1. It be authorized to engage Marsh & McLennan to be the Society's brokers in place of J.H. Minet & Co. (Canada) Ltd. forthwith;

2. It be authorized to instruct Marsh & McLennan to approach the market to obtain quotations on insurance affording similar coverage to the present on the basis of:

   (a) The Society retaining responsibility for $30,000 per occurrence in excess of a $5,000 deductible with

insurance covering the balance to $100,000 per occurrence plus stop loss insurance against depletion of the Society's fund;

(b) Variations of the amount of the Society's responsibility up to and including full responsibility beyond the deductible with in each case appropriate stop loss insurance.

In any event the Committee proposed to act upon the authority Convocation had given it to engage a Claims Manager to be responsible under the general direction of Convocation for the management of the claims made against the fund at a salary to be fixed by this Committee with the approval of the Chairman of the Finance Committee and to engage a secretary to work for him and to obtain suitable office accommodation, the cost to be approved by this Committee and the Chairman of the Finance Committee.

**THE REPORT WAS ADOPTED**

. . . . . .

## DISCIPLINE COMMITTEE—Mr. Lochead

### COMPENSATION FUND

Mr. J. D. Carnwath, Vice-Chairman, presented the Compensation Fund Summary for the period ended 30th June, 1976.

**COMPENSATION FUND**

**For the Period 1st July, 1975 to 30th June, 1976**
**(12 months)**

| | |
|---|---|
| TOTAL RECEIPTS | $ 276,153.44 |
| TOTAL DISBURSEMENTS | $ 196,935.26 |
| EXCESS OF RECEIPTS OVER DISBURSEMENTS | $ 79,218.18 |
| BALANCE OF FUND 1st July 1975 | $1,414,187.62 |
| BALANCE OF FUND 30th June 1976 | $1,493,405.80 |

**RESUME OF GROSS CLAIMS OUTSTANDING**

| | |
|---|---|
| CLAIMS RECEIVED and in the course of being processed as of 30th June 1976 | $2,434,203.99 |
| TOTAL PAID to 30th June 1976 from the commencement of the Fund on account of 940 claims of 100 former solicitors | $3,529,759.41 |

**THE SUMMARY WAS RECEIVED**

. . . . . .

Mr. Carnwath presented the Compensation Fund Summary for the period ended 31st August, 1976.

**COMPENSATION FUND**

**For the Period 1st July, 1976 to 31st August, 1976**
**(2 months)**

| | |
|---|---|
| TOTAL RECEIPTS | $ 13,777.31 |
| TOTAL DISBURSEMENTS | 69,546.52 |
| EXCESS OF DISBURSEMENTS OVER RECEIPTS | ($ 55,769.21) |
| BALANCE OF FUND at beginning of period | $1,486,468.30 |
| BALANCE OF FUND at end of period | $1,430,699.09 |

**RESUME OF GROSS CLAIMS OUTSTANDING**

| | |
|---|---|
| CLAIMS RECEIVED and in the course of being processed as of 31st August 1976 | $3,134,120.73 |
| TOTAL PAID to 31st August 1976 from the commencement of the Fund on account of 954 claims of 102 former solicitors | $3,599,241.92 |

**THE SUMMARY WAS RECEIVED**

. . . . . .

## GENERAL

Mr. J.D. Carnwath, Vice-Chairman, presented the General Report of the Policy Section of the Discipline Committee of its meeting on Thursday, 9th September, 1976.

The following members were present: Messrs. Carnwath (Vice-Chairman acting as Chairman), Bynoe (Vice-Chairman), Carrier, Cartwright, Evans, Furlong, Humphrey and Mrs. Sutherland.

### COMPENSATION FUND LEVY FOR THE ENSUING YEAR

Bearing in mind the total of the claims outstanding against the Compensation Fund, the Committee recommended that the present levy of $20.00 be increased to $30.00.

**THE REPORT WAS ADOPTED**

. . . . . .

### MOTION: COMPENSATION FUND LEVY 1976-77

It was moved, seconded and *carried* that the Compensation Fund levy for members of the Society for the fiscal year 1976-77 be $30.

. . . . . .

## LEGAL AID COMMITTEE–Mr. Bowlby

Mr. J.D. Bowlby, Chairman, regretfully informed Convocation of the death of Mr. David Thomas, the Assistant to the Provincial Director of the Legal Aid Plan. Mr. Thomas died in Toronto on 23rd August, 1976, after a short illness. He joined the Legal Aid Plan in 1967 as Legal Accounts Officer. In 1972 he was appointed Assistant to the Provincial Director, in which position his responsibilities included non-resident applications for Legal Aid, special disbursements and matters of Discipline.

Mr. Bowlby also informed Convocation that Mr. Douglas G. Kerr of Chatham died on 31st August, 1976, after a fairly

protracted illness. Mr. Kerr had been the Legal Aid Area Director for the County of Kent since the inception of the Legal Aid Plan.

. . . . . .

Mr. Bowlby presented the Report of the Legal Aid Committee of its meeting on Wednesday, 11th August, 1976.

The following members were present: John D. Bowlby, Chairman, and Messrs. Barnes, Carnwath, Chadwick, Cherniak, Mrs. Fleming, Messrs. Gilchrist, Hamer, Harris, Humphrey, Mrs. Jarmain, Messrs. Jones, Lewis, Linden, Montgomery, Ogilvie, Salhany and Wallace.

Also present at the meeting as observers were Walter B. Fox, Solicitor, Toronto, and Arthur C. Whealy, Q.C., President, Criminal Lawyers Association.

Mr. Charles W. Hill, Co-ordinator, Native Court Counselling Services for Ontario, attended the meeting by special invitation.

*(a) Finance*

The following is a comparison of the actual net expenditure of the Legal Aid Fund for the first quarter of this fiscal year with the budget as originally submitted by the Legal Aid Plan and with the budget as now imposed by the Province of Ontario.

Both sets of budget figures are pro-rated to a 3 month period and all amounts are expressed in thousands of dollars.

| | *Actual Cost to June 30, 1976* | *Legal Aid Budget* | *Under(Over) Legal Aid Budget* | *Province Budget* | *Under(Over) Province Budget* |
|---|---|---|---|---|---|
| **Fees and Disbursements** | **$ ,000** | **$ ,000** | **$ ,000** | **$ ,000** | **$ ,000** |
| Criminal | 3,411.2 | 3,497.4 | 86.2 under | 2,339.6 | (1,071.6) over |
| Civil | 1,891.9 | 1,814.4 | (77.5) over | 1,391.3 | (500.6) over |
| Advice | 38.7 | 69.7 | 31.0 under | 43.0 | 4.3 under |
| Duty Counsel | 517.4 | 876.3 | 358.9 under | 687.5 | 170.1 under |
| | 5,859.2 | 6,257.8 | 398.6 under | 4,461.4 | (1,397.8) over |
| Community Legal Service Groups | 199.7 | 71.0 | (128.7) over | 237.5 | 37.8 under |
| Student Legal Aid Societies | – | 33.0 | 33.0 under | 31.5 | 31.5 under |
| Area Office Costs | 627.0 | 682.4 | 55.4 under | 675.4 | 48.4 under |
| Administrative expenses | 438.9 | 500.6 | 61.7 under | 465.3 | 26.4 under |
| | 7,124.8 | 7,544.8 | 420.0 under | 5,871.1 | (1,253.7) over |
| Less: | | | | | |
| Client contributions and costs | 489.2 | 500.0 | 10.8 under | 500.0 | 10.8 under |
| Miscellaneous income | 21.1 | 15.7 | (5.4) over | 15.7 | (5.4) over |
| Total Net Expenditure | 6,614.5 | 7,029.1 | 414.6 under | 5,355.4 | (1,259.1) over |

*(b) Statistics*

The following table compares area office activity for the first quarter of this fiscal year with the same period last year.

| | *3 months to June 30/75* | *3 months to June 30/76* | *Increase (Decrease) Number* | *%* |
|---|---|---|---|---|
| Informal applications | 23,286 | 22,744 | (542) | (2.3) |
| Applications for certificates | 26,887 | 24,337 | (2,550) | (9.5) |
| Refusals | 7,433 | 7,734 | 301 | 4.0 |
| Certificates issued | 22,061 | 18,865 | (3,196) | (14.5) |
| Persons assisted by Duty Counsel | 38,228 | 38,657 | 429 | 1.1 |

## REPORT OF THE LEGAL ACCOUNTS OFFICER

### MONTHLY REPORT

*July 1976*

**Reviews**

| | *May* | *June* | *July* |
|---|---|---|---|
| Reviews on hand | 124 | 45 | 40 |
| Reviews received in | 89 | 135 | 147 |
| | 213 | 180 | 187 |
| Settlements reviewed | 80 | 140 | 79 |
| Settlements awaiting review | 114 | 25 | 99 |
| Settlements awaiting further information | 19 | 15 | 9 |
| | 213 | 180 | 187 |

**Appeals**

| | *May* | *June* | *July* |
|---|---|---|---|
| Appeals to Taxing Master received during July | – | – | 1 |
| Appeals heard by Taxing Master | 1 | 1 | – |
| Appeals pending at the end of the month | 2 | 2 | 3 |
| Appeals abandoned | – | – | – |

**Activity**

| | 1976/77 Fiscal Year | | | 1975/76 Fiscal Year | |
|---|---|---|---|---|---|
| | *Month of July* | *4 Months to July 31* | *4 Month Change from Last Year* | *Month of July* | *4 Months to July 31* |
| Accounts on hand at beginning | 5160 | 5087 | – 42.4% | 9935 | 8839 |
| Accounts received | 4973 | 21825 | + 5.2% | 4948 | 20747 |
| Total accounts to be processed | 10133 | 26912 | – 9.0% | 14883 | 29586 |
| Less: Files cancelled | 30 | 144 | + 10.7% | 26 | 130 |
| Accounts processed | 4986 | 21651 | + 4.5% | 6129 | 20728 |
| Accounts on hand at end | 5117 | 5117 | – 41.4% | 8728 | 8728 |

The above figures do not reflect accounts for interim disbursements and supplementary payments.

**STUDENT LEGAL AID SOCIETIES**

At a Special Convocation held in July, 1976, approval was given for each of the six Student Legal Aid Societies in the Province to receive immediately the sum of $17,000, for a total payment of $102,000. This proposal was made pursuant to a recommendation from the Student Legal Aid Societies' Criteria Committee, which Committee was formed to make recommendations on appropriate allocations of the money made available to the Student Legal Aid Societies.

Convocation enquired as to whether the Legal Aid Plan exercises control over the Student funding.

Section 74 of the Regulation sets out that a Dean may apply to the Legal Aid Committee for its approval of the establishment of a Student Legal Aid Society. Section 76 states that a Dean shall have control and supervision of the Student Legal Aid Society.

In April 1973, Convocation recommended that sums distributed to Law Schools should be disbursed on the following conditions:

(a) that the money is used for the purposes of the schools' Student Legal Aid Societies in the furtherance of student legal aid activity within the approved function of such societies,

(b) an accounting, with respect to the disbursement of these funds, be provided to the Legal Aid Committee within six months of the date of distribution thereof,

(c) if the schools have any doubt concerning the disbursement of such funds or the approved function of their Student Legal Aid Society, such doubt may be resolved upon summary application to the Chairman of the Sub-committee on Student Legal Aid Societies.

These reports are received by the Plan's senior administrators. It is the view of the Legal Aid Committee that an independent audit conducted by the Plan's staff is, in fact, unnecessary.

## LEGAL AID BUDGET

The implications of the Law Society's decision "that legal aid accounts will again be paid without delay as they are processed", was discussed at the Special July Convocation. The Attorney General had indicated that open-ended funding for the Legal Aid Plan will terminate and the budget will be finite.

In view of the present government financial restrictions the administrators of the Plan were requested to delay payment of solicitors' accounts for a period of several months so that the cost of the Legal Aid Plan could be tailored to fit budget restrictions imposed by Management Board of Cabinet.

The aforementioned decision by Convocation will result in a drying-up of funds available to pay solicitors' accounts, probably in December, 1976.

The Legal Aid Committee reviewed the problem in depth and recommended that the matter not be discussed with the profession at this time. It was decided that it was premature to enter into discussion with the profession-at-large since the Government in all probability will, in fact, make up the expected deficit.

## SHORT TERM TRAINING FOR NATIVE COURTWORKERS

Mr. Charles W. Hill, Co-ordinator, Native Court Counselling Services for Ontario, appeared before the Legal Aid Committee to present a brief concerning training for native courtworkers for its consideration.

After review the Committee recommended that Mr. Charles W. Hill's brief be submitted to the Sub-Committee under the Chairmanship of George E. Wallace, dealing with the delivery of legal aid services to persons in remote Northern Communities.

## FINANCIAL INFORMATION COMMITTEE

At the July 27th meeting of Convocation the matter of outstanding certificates and whether their financial worth could be estimated was discussed. The Financial Information Committee is composed of the following members: Professor A.M. Linden, Chairman; B.W. McLoughlin, Ministry of the

Attorney General; and Dermot J. McCourt, C.A., Deputy Director.

The Financial Information Committee retained Woods, Gordon at the expense of the Ministry of the Attorney General to prepare a report. The Woods, Gordon proposal was presented to the Committee by Professor Linden.

The Committee recommended that the Woods, Gordon proposal be approved subject to the Ministry of the Attorney General paying the cost.

**PRE–TRIAL CONFERENCES**

For Convocation's information, a meeting was called by The Chief Justice of The High Court of Ontario, The Honourable Mr. Justice W.Z. Estey, at which Mr. Justice Patrick Hartt; Mr. Justice John O'Driscoll; the Chairman of the Legal Aid Committee; the Director of The Ontario Legal Aid Plan; Clayton D. Powell, Q.C., Assistant Deputy Attorney General; F.E. Armstrong, Assistant Crown Attorney; Chief Judge Hayes; Judge Francis X. Fay; J.P. Rickaby, Senior Crown Attorney; and Arthur C. Whealy, Q.C., President of the Criminal Lawyers Association, were present.

As a result of the meeting, the Criminal Lawyers Association arranged a dinner meeting on September 23rd, 1976, to discuss with their members and invited guests, a proposal that pre-trial conferences be initiated on a consent basis in certain criminal trials.

**APPOINTMENT OF AREA DIRECTOR, TEMISKAMING DISTRICT**

P.J. Burns, Q.C. wrote the Director on May 11th, 1976, informing him that due to ill health and the fact that he was 71 years of age, he felt it was incumbent upon him to put forth his resignation as Area Director of Temiskaming District.

The Director received correspondence from Frederick J. Parry, Q.C., Chairman of the Area Committee, District of Temiskaming, informing him that it was the unanimous view of the Committee that Wayne E. Doxsee, Solicitor, Kirkland Lake, be appointed Area Director.

The Committee recommended that Wayne E. Doxsee, Solicitor, Kirkland Lake, be appointed Area Director for Temiskaming District.

### APPOINTMENT OF AREA DIRECTOR, OXFORD COUNTY

James D. Carnwath, Q.C., Area Director, Oxford County, advised the Director that due to business pressures and other commitments, he wished to resign as Area Director.

The Committee, after hearing from the Director and Mr. Carnwath, recommended that Mrs. Gretta J. Grant, Q.C. Area Director, Middlesex and Perth Counties, be appointed Area Director for Oxford County.

### LAY REPRESENTATION ON THE LEGAL AID COMMITTEE

On 19th July, 1976, The Honourable R. Roy McMurtry, Attorney General for the Province of Ontario, wrote the Director informing him that he had appointed Miss Annette Vaughan, Executive Director of the Canadian Environmental Law Research Foundation, as a lay member of the Legal Aid Committee.

## AREA COMMITTEES

Section 4(1) of The Legal Aid Act provides that the Law Society may appoint a Legal Aid Committee for an area.

The Committee recommended the following be appointed members of the Area Committees in:

**Ottawa-Carleton**

Marilyn White, University of Ottawa Student Legal Aid Society

### RESIGNATIONS

**Ottawa-Carleton**

John P. Manley, Student Legal Aid Representative, University of Ottawa

**Frontenac County**

Reverend Max V. Putnam, Kingston.

**THE REPORT WAS ADOPTED**

. . . . . .

Mr. Bowlby presented the Report of the Legal Aid Committee of its meeting on Wednesday, 8th September, 1976.

The following members were present: John D. Bowlby, Chairman, and Messrs. Carnwath, Chadwick, Ferrier, Mrs. Fleming, Messrs. Gilchrist, Harris, Mrs. Jarmain, Messrs. Jones, Lamb, Levinter, Lewis, Linden, Mrs. Smyth, Mr. Wallace, and Miss Vaughan.

A.G. Campbell, Q.C., Senior Counsel, Policy Development Division, Ministry of the Attorney General, was also in attendance by special invitation.

Harold Rosenthal, Solicitor, Toronto, was also in attendance at the meeting as an observer from the Criminal Lawyers Association.

**REPORT OF THE DEPUTY DIRECTOR**

*(a) Finance*

The following is a comparison of the actual net expenditure of the Legal Aid Fund for the first four months of this fiscal year with the budget as now imposed by the Province of Ontario.

Both sets of budget figures are pro-rated to a 4 month period and all amounts are expressed in thousands of dollars.

| | *Actual Cost to July 31, 1976* | *Legal Aid Budget* | *Under (Over) Legal Aid Budget* | *Province Budget* | *Under (Over) Province Budget* |
|---|---|---|---|---|---|
| **Fees and Disbursements** | **$ ,000** | **$ ,000** | **$ ,000** | **$ ,000** | **$ ,000** |
| Criminal | 4,588.1 | 4,663.2 | 75.1 under | 3,119.5 | (1,468.6) over |
| Civil | 2,574.7 | 2,419.2 | (155.5) over | 1,855.0 | (719.7) over |
| Advice | 52.4 | 92.9 | 40.5 under | 57.3 | 4.9 under |
| Duty Counsel | 711.1 | 1,168.4 | 457.3 under | 916.7 | 205.6 under |
| | 7,926.3 | 8,343.7 | 417.4 under | 5,948.5 | (1,977.8) over |
| Community Legal Service Groups | 274.2 | 94.7 | (179.5) over | 316.7 | 42.5 under |
| Student Legal Aid Societies | 102.0 | 44.0 | (58.0) over | 102.0 | – |
| Area Office Costs | 876.5 | 909.9 | 33.4 under | 900.6 | 24.1 under |
| Administrative expenses | 594.5 | 667.4 | 72.9 under | 620.4 | 25.9 under |
| | 9,773.5 | 10,059.7 | 286.2 under | 7,888.2 | (1,885.3) over |
| Less: | | | | | |
| Client Contributions and Costs | 676.2 | 666.7 | (9.5) over | 666.7 | (9.5) over |
| Miscellaneous income | 60.1 | 20.9 | (39.2) over | 21.0 | 39.1 over |
| Total Net Expenditure | 9,037.1 | 9,371.1 | 334.9 under | 7,200.5 | (1,836.7) over |

*(b) Statistics*

The demand for legal services during the month of July appears to have levelled out when looked at in terms of applications for Legal Aid certificates. During the month there were 9,339 such applications compared with 9,338 applications in July 1975. Informal applications were 8,779 as compared with 8,716 last year. Certificates issued in the month of July totalled 7,137 which represents a very small increase over the 7,115 issued for the same month last year.

Persons assisted by duty counsel totalled 12,813, compared with 12,388 for the month of July 1975.

However, because of the apparent decrease in demand during the first three months of this year, the accumulated figures for the four months to date still show activity running behind the totals for the same four month period last year as follows:

| | *4 months to July 31, 1975* | *4 months to July 31, 1976* | *% Change* |
|---|---|---|---|
| Informal applications | 32,002 | 31,523 | – 1.5 |
| Applications for certificates | 36,225 | 33,676 | – 7.0 |
| Certificates issued | 29,176 | 26,002 | – 10.8 |
| Persons assisted by duty counsel | 50,616 | 51,470 | + 1.7 |

The foregoing figures indicate a slight increase in the rate of refusal of applications due, no doubt, to the tighter exercise of discretion on the part of the Area Directors.

**REPORT OF THE LEGAL ACCOUNTS OFFICER**

*Reviews*

| | *August 1976* | *5 months to Aug. 31/76* | *5 months to Aug. 31/75* |
|---|---|---|---|
| Reviews on hand at beginning of | 108 | | |

| | *August 1976* | *5 months to Aug. 31/76* | *5 months to Aug. 31/75* |
|---|---|---|---|
| *Carried forward* | 108 | | |
| Reviews received in | 104 | 598 | 254 |
| | 212 | | |
| Settlements reviewed in | 148 | 574 | 231 |
| Settlements awaiting review at end of | 52 | | |
| Settlements awaiting further information at end of | 12 | | |
| | 212 | | |

## *Appeals*

| | *June* | *July* | *August* |
|---|---|---|---|
| Appeals to Taxing Master received during August | – | – | 1 |
| Appeals heard by Taxing Master | 1 | – | – |
| Appeals pending at the end of the month | 2 | 3 | 4 |
| Appeals abandoned | – | – | – |

## *Activity*

| | **1976/77 Fiscal Year** | | **1975/76 Fiscal Year** | |
|---|---|---|---|---|
| | *Month of August* | *5 Months to August 31* | *Month of August* | *5 Months to August 31* |
| Accounts on hand at beginning | 5117 | 5087 | 8728 | 8839 |
| Accounts received | 4627 | 26452 | 4192 | *24939 |
| Total accounts to be processed | 9744 | 31539 | 12920 | 33778 |
| Less: Files cancelled | 28 | 172 | 30 | 160 |
| Accounts processed | 5167 | 26818 | 4951 | 25679 |
| Balance | 4549 | 4549 | 7939 | 7939 |

**Accounts received for same 5 months 1974 were 18818.*

The above figures do not reflect accounts for interim disbursements and supplementary payments.

**SUB–COMMITTEE TO REVIEW THE FUNCTION OF DUTY COUNSEL**

A Sub-Committee was appointed consisting of the following members: Professor A.M. Linden, Chairman; Sidney Linden; Robert J. Carter; David Humphrey; Peggy Smyth; and Arthur Whealy, Q.C.; to consider the entire function of Duty Counsel as provided for under the Legislation.

The Chairman received correspondence from the Attorney General dated the 20th of August, 1976, acknowledging receipt of a copy of the Duty Counsel report as prepared by the Linden Sub-Committee, which read in part as follows:

> "The report on duty counsel reflects an innovative and realistic approach to the questions of quality and cost of service. I would ask you to pass on to the Special Committee my appreciation for their work. The possibility of implementing the recommendations, particularly in relation to salaried duty counsel, will of course depend very largely on cost factors. I have directed my officials to get together with officials of the Plan in order to work out the full cost implications of the proposals."

A report was presented to the Committee from the Linden Sub-Committee, and a report as re-drafted together with a dissenting view from Robert J. Carter, was forwarded to all members of the Committee on August 17th last, so that they would be in a position to conclusively deal with the report's recommendations.

After discussion the Committee unanimously recommended that the Linden report be adopted with the stipulation that the pilot project of the Extended Duty Counsel Operation be instituted for a period not exceeding 2 years during which time it will be continually monitored and evaluated by a Sub-Committee which will report to the Legal Aid Committee.

**CRIMINAL LEGAL AID PANELS**

The Legal Aid Committee at its September meeting discussed the quality of service being rendered under the Plan. The Committee noted the report of Mr. Justice Osler which stated:

> "We are satisfied that the present system, generally speaking, is producing better service on the criminal side than any other system . . ."

To ensure the best possible service, the Committee recommended that students-at-law who subsequently wish to place their names on the Criminal Legal Aid Panel or the Duty Counsel Panel must attend the Criminal Procedure Section of the Bar Admission Course.

The Chairman instructed the Director to contact Mr. George Collins-Williams, Q.C., Director of the Bar Admission Course, in order to advise him of the above proposal and enlist his co-operation.

It was moved in Convocation seconded and *carried* that the words "subject to the approval of the Legal Education Committee" be added at the end of the second complete paragraph of this item respecting CRIMINAL LEGAL AID PANELS, so that the paragraph reads:

> To ensure the best possible service, the Committee recommended that students-at-law who subsequently wish to place their names on the Criminal Legal Aid Panel or the Duty Counsel Panel must attend the Criminal Procedure Section of the Bar Admission Course, subject to the approval of the Legal Education Committee.

**PROVINCIAL DIRECTORS' MEETING**
**SASKATOON, AUGUST 25, 26 & 27, 1976**

The Provincial Directors held a meeting in Saskatoon on August 25, 26 and 27, 1976.

**DELIVERY OF LEGAL AID IN**
**REMOTE AREAS**

A report from Mr. George Wallace's Sub-Committee on

Delivery of Legal Aid in Remote Areas was received by the Committee. Further consideration will be given to this report and discussions will take place with representatives of the Ministry of the Attorney General.

## AREA COMMITTEES

Section 4(1) of The Legal Aid Act provides that the Law Society may appoint a Legal Aid Committee for an area.

The Committee recommended the following be appointed members of the Area Committees in:

**Norfolk County**

Brian Stead, Simcoe

**Niagara South**

Douglas R. McDermid, Solicitor, Niagara Falls
Sean F. Foley, Solicitor, Thorold

## RESIGNATIONS

**Norfolk County**

T. Cline, Solicitor, Simcoe

**Niagara South**

Douglas McLeod, Solicitor, Niagara Falls

**THE REPORT AS AMENDED WAS ADOPTED**

. . . . . .

## PROFESSIONAL CONDUCT COMMITTEE—Mr. Cooper

Mr. P.B. Tobias presented the Report of the Professional Conduct Committee of its meeting of Thursday, 9th September, 1976.

The following members were present: Messrs. Kellock (Vice-Chairman acting as Chairman), Carrier, Evans, Furlong, Strauss, Mrs. Sutherland and Mr. Tobias.

**RULING 10**

In the June 1976 Report reference was made to a lawyer asking whether it would be proper for him to set out on his letterhead the area or areas to which his practice was being restricted. The Secretary had been instructed to advise that to put such information on a letterhead was contrary to the provisions of Ruling 10, paragraph 4, of the Rules of Professional Conduct, and that it was not prepared to authorize an exception as would be permitted by paragraph 7 of that Ruling. Convocation rejected the Committee's opinion on the basis that any application for exception should be dealt with on its merits. The lawyer who initially raised the question was asked for certain information so that the matter could again go before the Committee. He did not respond; however, Mr. Glen Kealey, Ottawa, made a similar application for approval. The Committee, after reviewing the information supplied by Mr. Kealey, instructed the Secretary to advise him that in the Committee's opinion there would be no objection to it being shown on his letterhead that he was restricting his practice to "matrimonial law".

**RULING 10**

Mr G. L. Argiris, Toronto, asked the Committee whether the "logo" he submitted would be acceptable for use on his letterhead.

At its meeting on March 11th, 1971, the Committee reported that its attention had been drawn to the letterheads of two law firms. The Committee at that time was of the opinion that both letterheads contravene Ruling 10 in that the first was not of modest size and not in good taste, while the second was not in good taste. The Secretary was accordingly instructed to so advise both law firms. These opinions were reported to Convocation that month. Both matters were referred back to the Committee for further consideration. At a subsequent meeting the Committee was of the opinion that no action should be taken with respect to either letterhead and instructed that files on both be closed.

In the light of the foregoing your Committee has instructed the Secretary to advise Mr. Argiris that it has no objection to the "logo" he submitted being used on his letterhead.

**RULING 16**

The "Caveat" is a newspaper published by the Faculty of Law, Common Law Section of the University of Ottawa. The Business Manager of this publication asked that it be approved as being a proper publication for the insertion of lawyers' cards. The Committee noted that "Obiter Dicta", a publication of the Osgoode Hall Law School at York University, and "The Oyez", a publication of the University of Windsor Faculty of Law, although they do not fall within the category of "law school reviews and journals", have both been previously approved. The Secretary was instructed to advise the Business Manager that the "Caveat", in the special circumstances, had been approved.

**THE REPORT WAS ADOPTED**

. . . . . .

## LIBRARIES AND REPORTING COMMITTEE—Mr. Seagram

Mr. C.J. Seagram, Chairman, presented the Report of the Libraries and Reporting Committee of its meeting on Thursday, 9th September, 1976.

The following members were present: Messrs. Seagram (Chairman), Rogers, Shibley, Strauss and Mrs. Tait, and Miss A.R. McCormick.

## GREAT LIBRARY

**GIFTS AND DONATIONS**

The following donations to the Great Library have been received:

| | |
|---|---|
| D.L. Constable, Q.C.<br>Toronto | Several back issues of The Law Society of Upper Canada Gazette. |
| E.V. Matura,<br>Toronto | A total of 190 volumes of the Statutes of Canada and of Ontario, featuring the years 1857-1949 and including copies of consolidated and revised statutes published in that |

| | |
|---|---|
| | period, along with 2 volumes of indexes to the statutes. |
| David C. Ross, Toronto | A total 499 volumes including 52 v. of the Statutes of Canada 1952-1968/69; and of Ontario, 1970-1974; 423 v. of various series of reports of Canada and of Ontario complete and in excellent condition; and 24 v. of texts. |

**COPY EQUIPMENT**

The Committee approved, subject to the approval of the Finance Committee, the installation of a Coin-operated Xerox 3100 copier to improve the Libraries Reference Service. The reason for obtaining this machine was stated as being the increased use of the Coin-operated Xerox 4000 which was installed in October, 1975.

## COUNTY LAW LIBRARIES

**PRINCE EDWARD COUNTY**

The Committee recommended that the solicitor from this County who had sought the assistance of the Chief Librarian be helped by supplying him with books provided that:

(a) the books be marked property of The Law Society of Upper Canada and

(b) the books be located in a secure space in the Court House.

Since there is no county law association in existence the Committee felt that it could not recommend financial assistance for this project.

## REPORTING

**BARRISTERS' LIBRARY –**
**145 QUEEN STREET WEST**

The Committee considered a letter from Chief Justice

Estey stating that the Government of Ontario would not pay any further expenditures in connection with this Library. The Committee instructed the Secretary to obtain a report on the humidity and dampness from a consultant prior to the October meeting.

**ADVERTISING BY NON–RESIDENT SOLICITORS IN THE ONTARIO REPORTS**

The Committee recommended that since in the Committee's opinion, an advertisement in the Ontario Reports by a Buffalo attorney soliciting business for his law firm is objectionable, Canada Law Book should be instructed not to print advertisements of this type in the future.

**CANADA LAW BOOK LIMITED CONTRACT – DELAY IN PUBLICATION OF REASONS FOR JUDGMENT – CLIC**

The Secretary reported that a meeting of the Sub-Committee was to be held on September 16, 1976.

**THE REPORT WAS ADOPTED**

. . . . . .

## UNAUTHORIZED PRACTICE COMMITTEE–Mrs. White

Mr. P.B. Tobias, Vice-Chairman, presented the Report of the Unauthorized Practice Committee of its meeting on Thursday, 9th September, 1976.

The following members were present: Messrs. White (Chairman), Fennell, Furlong, Mrs. Legge, Messrs. Seagram, Strauss and Tobias.

1. The Committee considered a letter from S.R. Ellis, Director of the Parkdale Community Legal Service, with respect to the proposed incorporation of a Foundation to be called "Community Legal and Social Services Foundation". Mr. Ellis stated to the Committee that the Foundation would initiate and fund clinics and its role would be similar to that of a manage-

ment company. The Foundation would be a non-profit organization and any practice of law carried on by the clinics would be carried on by qualified lawyers. The objects of the Foundation as submitted for consideration by this Committee were found to be objectionable. Specifically the Committee objected to the statement "To make the legal system truly accessible in a meaningful and comprehensive way to recent immigrants and low income members of ethnic communities residing in Metropolitan Toronto, by: (a) Encouraging and supporting the delivery of a full range of free legal and paralegal services in community based clinics through lawyers, paralegals and law students versed in the clients' particular ethnic culture, and working in office environments that are culturally accessible and psychologically comfortable; . . ."

The Committee also objected to the name, "Community Legal and Social Services Foundation" and instructed the Secretary to notify the Director of this fact and explain that a corporation cannot practise law.

2. The Committee considered a further letter from one of the students on the Community and Legal Aid Services Programme Board, advising that the organization is hiring a full-time solicitor and also indicating that the students only draft separation agreements and only incorporate non-profit corporations. The Secretary was instructed to write to the student that he and the C.L.A.S.P. students appear to be contravening Section 50 of The Law Society Act in connection with the above two matters.

3. The Committee dealt with 7 letters of Complaint received from solicitors with respect to Commissioners, Notaries Public and Conveyancers who were acting on real estate transactions for either vendors or purchasers. The Secretary was instructed to write to obtain more evidence in some cases, in other cases to advise the solicitors that complained that the limitation period on the particular real estate transaction had expired and in others to send copies of the brief of cases on Unauthorized Practice.

4. The Committee considered a complaint from a solicitor concerning a Notary Public whose negligence had apparently

cost the solicitor's client $24,000, because a mortgage back to the vendor on a real estate transaction was not registered. The Secretary was instructed to send all of the documents in the file to the Attorney General's office so that when the notary's appointment comes up for renewal this matter will be considered.

5. The Committee considered a letter from a solicitor complaining about the registration of a sole proprietorship for paralegal purposes. The Secretary was instructed to get a copy of the registration from the Ministry of Consumer & Corporate Affairs for the next meeting.

6. The Committee considered a report from counsel in Kingston on an investigation of an individual who was incorporating companies. Counsel's investigation indicated that there was not sufficient evidence to prosecute.

7. The Committee considered a complaint from a solicitor concerning a company that searched titles and whose president was a solicitor. Since it appeared to the Committee that the company was practising law, this matter was referred to the Discipline Committee.

**THE REPORT WAS ADOPTED**

. . . . . .

## PUBLIC RELATIONS COMMITTEE—Mr. Wallace

Mrs. R.M. Tait presented the Report of the Public Relations Committee of its meeting on Thursday, 9th September, 1976.

The following members were present: Mr. Wallace, Chairman, Mrs. Tait and Mr. Tobias.

### 1. PAMPHLETS

A number of pamphlets from several Bar Associations in the United States were before the Committee when it met in

September and October of last year and it was recommended that the matter stand. These are again before the Committee as well as pamphlets from The Law Society, England; the B.C. Government; Alberta Branch of the Canadian Bar, and a number of others.

The Committee is finding out the cost of preparing a brochure on the Society and Osgoode Hall for distribution to the public.

Mr. Tobias has agreed to arrange for the drafting of three pamphlets on aspects of lawyers' services suitable for distribution to the public through lawyers' offices and to bring the drafts to the Committee for consideration. A recommendation to Convocation will be made at that time.

## 2. CANADIAN BAR ASSOCIATION

(a) A letter from the Chairman of the Ontario Branch of the Canadian Bar Association's Public Relations Committee was before the Committee for discussion.

(b) A copy of the Public Relations Guide produced by the Canadian Bar Association was before the Committee. A number of these have been received in the Secretary's office.

The Committee recommended that a member of the Canadian Bar Association Public Relations Committee be invited to attend from time to time meetings of the Society's Public Relations Committee and that the Society's Public Relations Committee reciprocate when invited to do so.

## 3. SPEAKING ASSIGNMENTS FOR BENCHERS

The Committee recommended that when Benchers have filled speaking engagements at meetings of County and District Law Associations, these be reported in the Communiqué. In June, 1976 the Treasurer, Mr. Gray, spoke to the Nipissing Law Association and Mr. Lochead spoke to the Algoma District Law Association and the Muskoka Law Assocation in the same month. In July the Secretary spoke to the Elgin Law Association and in the spring Mr. Thom appeared on CBC's "24-Hours".

**THE REPORT WAS ADOPTED**

. . . . . .

**SPECIAL COMMITTEE ON J. SHIRLEY DENISON BEQUEST**

Mr. P.B.C. Pepper presented the Report of the Special Committee on J. Shirley Denison Bequest of its meeting on Thursday, 9th September, 1976.

The following members were present: Messrs. Sheard (Chairman), Pepper and Shepherd.

**APPLICATIONS**

The Committee considered two applications and recommended that grants be made, and considered information respecting the financial affairs of a recipient of a grant.

**STUDENT APPLICATIONS**

Applications for grants were received from 14 students. A memorandum from the Assistant Director of the Bar Admission Course was before the Committee.

The Committee adopted the Assistant Director's recommendation that only one grant be made.

**THE REPORT WAS ADOPTED**

. . . . . .

**CONVOCATION ROSE AT 5:40 P.M.**

. . . . . .

Read in Convocation and confirmed 15th October, 1976.

W. GIBSON GRAY

Treasurer

THE LAW SOCIETY OF UPPER CANADA

# Minutes of Convocation

Volume 1 Number 6

# MINUTES OF CONVOCATION
## (ABRIDGED)

Friday, 15th October, 1976
10:00 a.m.

**PRESENT:**

The Treasurer (Mr. W. Gibson Gray) and Messrs. Brulé, Carrier, Carthy, Cartwright, Cass, Chadwick, Common, Evans, Farquharson, Fennell, Furlong, R.J.S. Gray, Ground, Henderson, Kellock, Mrs. Legge, Messrs. Linden, Lochead, Montgomery, Ogilvie, Pallett, Pepper, Rogers, Salhany, Seagram, Sheard, Strauss, Mesdames Sutherland and Tait, Messrs. Wallace, White and Willoughby.

. . . . . .

**MINUTES**

The Minutes of Convocation of 17th September, 1976 were read and confirmed.

. . . . . .

**APPOINTMENT TO STANDING COMMITTEE**

It was moved, seconded and *carried* that Mr. *P.B. Tobias* be appointed a member of the Professional Conduct Committee.

. . . . . .

**UNFINISHED BUSINESS**

Because of the lateness of the hour the following item was deleted from the REPORT OF THE PUBLIC RELATIONS COMMITTEE which was before Convocation on 17th September, 1976:

**LAWYER REFERRAL SERVICE**

The Committee requested Convocation's direction

whether the Lawyer Referral Service should be extended throughout the Province.

At this time the Service is operated by the Society in Toronto, London and Ottawa. There is increasing pressure on the Society to develop a method of making it possible for members of the public to be able to identify lawyers who practise in a field in which their services are needed. In editorial comment recently the Society has been praised for the Referral Service it does maintain though it is pointed out that the Service is limited in geographical coverage and does not fully satisfy the need for identifying the areas of practice in which lawyers engage. The solution to the problem of accreditation or specialization and public information is not the concern of this Committee. The Committee did, however, consider the question of extending the Lawyer Referral Service.

The Secretary advised the Committee that the Service could be extended in a series of steps to embrace the whole Province by linking the Service to an "800" or "Zenith" telephone number and by utilizing the Society's computer to store regional lists of participating members. Under such a system a member of the public anywhere in the Province could telephone a single number and reach an employee of the Society who would identify the area of law in which the caller's problem lies and by reference to the computer supply the name of the lawyer in the caller's geographical area next on the list of those who are ready to deal with problems of that kind. The Service includes the provision that members participating in it agree to provide the first half-hour of advice and consultation at a cost of $10.

Mr. Burnett reported that the cost of covering the whole Province would be in the neighbourhood of $2,500 more than the cost of the present Referral Service in the three cities. It was suggested that if the Referral Service is to be expanded in this way it be done gradually simply by listing the "800" number in additional telephone books as experience with the expanded system grows.

It was moved, seconded and *carried* that the matter be approved in principle and referred to the Public Relations

Committee for consideration of its implementation and further report.

. . . . . .

## LEGAL EDUCATION COMMITTEE–Mr. Finlayson

Mr. J.D. Ground, Vice-Chairman, presented the Report of the Legal Education Committee of its meeting on Thursday, 7th October, 1976.

The following members were present: Mr. G.D. Finlayson, Chairman, Mr. J.D. Ground, Vice-Chairman, and Messrs. Carthy, Cartwright, R.J. Gray, Kellock, Rogers and Salhany.

## BAR ADMISSION COURSE

### LONDON PREMISES

The Assistant Director for London proposed that the premises where the London branch of the Bar Admission Course is conducted be known as "Southwestern Ontario Legal Education Centre". The premises have been locally known as the Silverwood Building and as the University of Western Ontario Music School. The Director recommended that the use of the said name be approved for the premises of the Law Society of Upper Canada in London. The Committee approved the recommendation.

It was moved in Convocation, seconded and *carried* that the name of the premises of the branch of the Bar Admission Course in London be the "London Legal Education Centre".

### PRIZES

Two new prizes have been offered for award to students in the Bar Admission Course, as follows:

(1) an offer by Messrs. Giffen, Pensa, Barristers and Solicitors of London, to donate a $500 annual prize to the student obtaining the highest standing in the London Bar Admission Course, such prize to be in

the name of that firm. The Director recommended that as a matter of policy any prizes awarded in the Bar Admission Course should be available to every student in the course and not only to students in one of its branches and that the said firm be asked to reconsider its offer in the light of this policy.

The Committee recommended that the offer made by Messrs. Giffen, Pensa, Barristers and Solicitors in London, be accepted on the terms they suggest.

(2) an offer by Mr. Harvey M. Haber, Editor-in-Chief of the publication, "Shopping Centre Leases", made on behalf of himself and the Editorial Board, to donate the sum of $5,000 to The Law Society Foundation, the interest thereon to be used as a prize or prizes to be called "The Practitioners Prize in Real Estate" donated by the contributors to the publication "Shopping Centre Leases" to be awarded for achievement in the section on Real Estate and Landlord and Tenant. The Director recommended that this sum be gratefully accepted and that the terms under which the prize or prizes will be awarded be given further consideration.

*Approved*

**CALL TO THE BAR CONVOCATION, MARCH 1977**

At its meeting on June 10th, 1976 the Committee tentatively approved the following dates for the Call to the Bar Convocations:

| | |
|---|---|
| Toronto | – Monday, March 28th, 1977 |
| Ottawa | – Tuesday, March 29th, 1977 |
| London | – Wednesday, March 30th, 1977 |

Because the premises required were not available on these dates, the Director recommended that Call to the Bar Convocations be held at the following times and places:

| | |
|---|---|
| Friday, March 25th, 1977 | – Ottawa, at the National Arts Centre |
| Monday, March 28th, 1977 | – London, at the Elborn Teachers College |
| Tuesday, March 29th, 1977 | – Toronto, at the O'Keefe Centre. |

*Approved*

**CRIMINAL LEGAL AID AND DUTY COUNSEL PANELS**

The report of the Legal Aid Committee which was before Convocation on Friday, September 17th recommended that students-at-law who wish to place their names on the Criminal Legal Aid Panel or the Duty Counsel Panel after Call to the Bar must attend the Criminal Procedure section of the Bar Admission Course. This recommendation was approved subject to the approval of the Legal Education Committee.

The Committee did not approve.

**PENALTY FOR LATE FILING OF FEES – RULE 50**

A student-at-law who entered articles in September 1976, was required to pay in addition to the regular fee of $101 prescribed by Rule 50, an additional fee of $15 for late filing. The student requested the return of the $15 additional fee.

The Committee recommended the request be denied.

**FACULTY APPOINTMENTS**
**(Toronto, Ottawa and London as indicated)**

It was recommended that the following appointments be made for the teaching term which commenced September 7, 1976.

**Civil Procedure I Section**

To continue as Head of the Section, R.J. Rolls, Q.C.

Group Instructors (Osgoode Hall): Richard Anka, T.G. Bastedo, R.A. Blair, Herbert Brodkin, D.J. Brown, M.A. Catzman, R.G. Chapman, T.J. Dunne, S.L. Goldenberg, S.T. Goudge, P.G. Jarvis, J.I. Laskin, J.L. McDougall, D.C. McTavish, J.T. Morin, P.J. Pape, Julian Polinka, A.M. Rock, A.M. Robinson, L.D. Roebuck, J.W. Rowley, D.H. Sandler, R. Slaght, J.D. Sloan, P.J. Sullivan, T.H. Wickett, B.S. Wortzman, Perce Young.

Group Instructors (Ottawa): G.P. Kelly, D.J. Power, David Scott, Wayne Spooner, P.C.P. Thompson, J.W. Touhey.

Group Instructors (London): D.G. Gunn, R.R. Nicholson, C.M.V. Pensa, C.S. Ritchie.

Stand-by Instructors (Osgoode Hall): L.A.J. Barnes, J.P. Dube, F.G. Felkai, Arthur Gans, R.S. Harrison, L.J. Levine, A.C. Millward, J.C.

Osborne, Jan Weir.

Stand-by Instructor (Ottawa): T.D. Ray.

Stand-by Instructors (London): P.B. Hockin, J.C. Kennedy, John Makins,

**Civil Procedure II Section**

To continue as Head of the Section, J.W. O'Brien, Q.C.

Group Instructors (Osgoode Hall): Peter Braund, B.D. Brown, Q.C., Brown, Hans Dickie, Darcy Duke, W.G. Dutton, Q.C., N. Dyson, Q.C., D. Elliott, Q.C., M. Ellis, Q.C., George Glass, J. Haffey, Q.C., R. Heather, Q.C., Kenneth Howie, Q.C., Paul Jewell, Q.C., Tony Keith, Q.C., T. Kerzner, T. Lockwood, Glenn MacPherson, T. McGrenere, Laurie Mandel, C. Martin, T. Matlow, Allen O'Donnell, T. Rachlin, E.A. Sabol, W. Somers, Wendell Wigle, Q.C., Richard McLean, Q.C.

Group Instructors (Ottawa): J.R.M. Gautreau, J.H. Haydon, W.R. Hunter, R.J. Kealey, James Reid, Q.C., J.R. Sigouin, P.A. Webber.

To be appointed Senior Instructor (London), J.R. Caskey (replacing H.W. Hockin, Q.C., who resigned).

Group Instructors (London): B.B. Beach, W.L. Dewar, W.A. Jenkins, D.H. Proudfoot.

Stand-by Instructors (Osgoode Hall): Franz Bowman, D. Lilly, J. Lyons, Jean L. McFarland, B.B. Papazian.

Stand-by Instructor (Ottawa): H.W. Pearl.

Stand-by Instructors (London): G.L. Bladon, Vincent Calzonetti, J.H. Gillies, Q.C.

**Law Office Organization and Procedure Section.**

To continue as Head of the Section, A.A. Strauss, Q.C.

Group Instructors (Osgoode Hall): Gordon Armstrong, R.L. Butters, B.A. Campbell, R.Y.W. Campbell, Irwin Cooper, P.M. Feldman, K.N. Karp, Samuel Lavine, Julian Romanko, David Vine, J.J. Wardlaw.

To continue as Senior Instructor (Ottawa), Marcel Joyal, Q.C.

Group Instructors (Ottawa): A.D. Abelson, Q.C., R.A. Barrette, R.C. McLaughlin, H.R. McNeely, J.P. Morrison, Q.C., R.G. Paris, P.H. Watson.

Group Instructors (London): A.M. Jeffery, G.H. Kleiman, D.D. Organ, Janet E. Stewart.

Stand-by Instructor (Ottawa): Paul Labarge.

Stand-by Instructors (London): M.J. Morrissey, Q.C., J.A. Whaley.

It was recommended that the following appointment be made for the teaching term which commenced September 7th, 1976.

**Corporate and Commercial Law Section**

To continue as Senior Instructor (Ottawa), Charles E. O'Connor.

**Family Law Section**

To continue as Senior Instructor (Ottawa), Mrs. Allyne F. Thomson

*Approved*

**BAR ADMISSION COURSE–O.C.U.A. Operating Grant**

The Director received a telephone enquiry from Dr. Winegard of the Ontario Council on University Affairs asking what, if any, submission the Law Society wished to make this year to the Council respecting the Bar Admission Course. Such submission may be in writing, or by informal meeting with Dr. J.S. Dupre and Dr. W.C. Winegard, the Chairman and Vice-Chairman of the Council respectively, or by formal appearance before the full Council, or some combination of these. The appearance before the Council would be on either Friday, November 12 or Saturday, November 13, 1976.

*Noted*

**BAR ADMISSION COURSE AND CONTINUING EDUCATION**

The Committee granted three petitions with respect to the Bar Admission Course, two of which had been referred to this Committee by the Admissions Committee.

The Committee considered financial statements for the Bar Admission Course and Continuing Education; reviewed its revised estimates for the forthcoming year for submission to the Finance Committee; and considered a statement of Continuing Education Programmes held during September 1976 and the

publications report for the month of September 1976.

**SUB–COMMITTEE ON APPROVED LL.B. DEGREES**

The Chairman appointed Messrs. R.J. Gray and Shibley and Mrs. Tait a Sub-Committee with himself as Chairman to review the basis of approval of LL.B. courses for the purpose of having graduates therefrom enter the Bar Admission Course.

**THE REPORT AS AMENDED WAS ADOPTED**

. . . . . .

## ADMISSIONS COMMITTEE–Mr. Pepper

Mr. P.B.C. Pepper, Chairman, presented the Report of the Admissions Committee of its meeting on Thursday, 7th October, 1976.

The following members were present: Mrs. L.L. Legge, Vice-Chairman in the Chair, Messrs. Cass and R.J. Gray, and Mrs. Sutherland.

**CALL TO THE BAR AND CERTIFICATE OF FITNESS**

### Transfer from another Province

The following candidates, having passed the examinations set by the Examining Board, filed the necessary documents and paid the required fee of $411, applied for Call to the Bar and to be granted Certificates of Fitness:

| | |
|---|---|
| Gordon Edward Harold Betts | British Columbia |
| Martin Hayward Campbell | Province of Quebec |
| Jonathan Joseph Enman Guss | New Brunswick |
| Hugh Hendry McLellan | New Brunswick |

*Approved*

### Special

The following candidates, having filed the necessary papers, complied with the requirements of the Admissions Committee in each particular case and paid the required fee of

$200, were entitled to be called to the Bar and to be granted Certificates of Fitness:

| | |
|---|---|
| William Neil Brooks | Special – Osgoode Hall Law School, York University |
| Ian Alexander Hunter | Special – University of Western Ontario |
| Beverley Baines Wilson | Special – Queen's University |

*Approved*

### Call to the Bar for Occasional Appearance

At its meeting on the 9th September, 1976 the Admissions Committee recommended that the following be allowed to proceed under the Admissions Committee's Regulation 10 concerning "Occasional Appearances in Ontario of Lawyers from other Provinces" and that upon giving the necessary undertakings he be called to the Bar and admitted as a solicitor:

| | |
|---|---|
| Pierre Lamontagne | Province of Quebec |

*Approved*

## ADMISSION OF STUDENTS–AT–LAW

### Bar Admission Course

A further total of 310 candidates, having complied with the relevant Regulations, paid the required admission fee of $101 and filed the necessary papers, applied for admission to the Law Society as students-at-law in the Bar Admission Course under Regulations 26(5) as of 1st September, 1976.

## FULL–TIME MEMBERS OF THE FACULTIES OF APPROVED LAW SCHOOLS

The following members of approved law faculties asked to be called to the Bar and admitted as solicitors without examination under Regulation 9 respecting full-time members of approved Law Faculties in Ontario upon payment of a fee of $200. Letters confirming the eligibility of the applicants have been received from the Deans of the relevant law schools.

| | |
|---|---|
| Bernard Morris Dickens | LL.B. University of London 1961<br>LL.M. London 1965<br>Doctor of Philosophy (Laws) 1971<br>Called to the Bar of England 1963 |
| Douglas Gordon Edward | Bachelor of Mathematics<br>University of Waterloo 1969<br>LL.B. Queen's University 1973<br>LL.M. Harvard University 1974 |
| James William Ingram Lockyer | LL.B. University of Nottingham,<br>England 1971<br>Called to Bar in England 1974 |

*Approved*

**BAR ADMISSION COURSE**

The Committee considered a petition from a Quebec solicitor for permission to enter the Bar Admission Course and approved the petition subject to the approval of the Legal Education Committee.

**HOUSE COUNSEL**

The Committee was asked to consider the desirability of seeking legislation to permit the creation of a special class of membership in the Society limited to practice with a single client such as a corporation.

The question was raised in a letter to the Treasurer by a Toronto solicitor. He enclosed copies of Quebec legislation providing for such restricted membership in the Bar of that Province. The Treasurer asked that the matter be considered by this Committee.

The Committee was of the view that this question involves considerations of such importance that they ought to be explored by a Special Committee of Convocation.

**THE REPORT WAS ADOPTED**

. . . . . .

**CALL TO THE BAR**

The following candidates were presented to the Treasurer

and Convocation and were called to the Bar, and the degree of Barrister-at-law was conferred upon each of them by the Treasurer:

Gordon Edward Harold Betts
Martin Hayward Campbell
Jonathan Joseph Enman Guss
Hugh Hendry McLellan
William Neil Brooks
Ian Alexander Hunter
Beverley Baines Wilson
Pierre Lamontagne

. . . . . .

## DISCIPLINE COMMITTEE–Mr. Lochead

### Re: BRUCE MURRAY WHITE, Madoc

Mr. G.H. Lochead, Chairman, placed the matter before Convocation.

Messrs. Cass, Evans and Pallett withdrew, took no part in the discussion and did not vote.

The reporter was sworn.

The solicitor attended without counsel. Mr. S.E. Traviss represented the Society.

The Secretary read the Decision of the Discipline Committee dated 22nd July, 1976, wherein the solicitor was found guilty of professional misconduct in that he had completely neglected a client's interests and deliberately misled him as to the status of an action the client had instructed him to conduct.

It was moved and seconded that the Decision of the Discipline Committee dated 22nd July, 1976, wherein the solicitor was found guilty of professional misconduct be accepted.

The solicitor stated that he accepted the Committee's decision.

The solicitor, counsel and the reporter withdrew.

The motion that the Decision of the Discipline Committee be accepted was *carried*.

It was moved and seconded that Convocation by Order disbar the solicitor and that his name be struck off the Roll of Solicitors and that his membership in the Society be cancelled.

The solicitor, counsel and the reporter returned.

The solicitor and counsel were advised that the Decision of the Discipline Committee had been accepted by Convocation and of the motion respecting penalty before Convocation. No submissions were made.

The solicitor, counsel and the reporter retired.

The motion that the solicitor be disbarred was *carried*.

. . . . . .

**Re: FRANK FREDERICK SHUNOCK, Sault Ste. Marie**

Mr. Lochead placed the matter before Convocation.

The reporter was sworn.

The solicitor was not in attendance. His counsel, Mr. S. Bruce Durno, appeared for the solicitor and the Society was represented by Mr. Peter B. Bell.

Mr. Durno informed Convocation that he had no instructions from the solicitor and withdrew.

The Secretary read the Decision of the Discipline Committee dated 28th September, 1976, wherein the solicitor was found guilty of conduct unbecoming a barrister and solicitor in that he had been convicted of charges under the Criminal Code that he had converted with intent to defraud a client of monies entrusted to him as a Trustee; of unlawfully and wilfully attempting to obstruct justice by causing two persons to fabricate evidence; and of conspiring to commit an indictable offence, namely, trafficking in a narcotic.

The solicitor was called but was not in attendance. Counsel for the Society and the reporter withdrew.

It was moved and seconded that the Decision of the

Discipline Committee dated 28th September, 1976, wherein the solicitor was found guilty of conduct unbecoming a barrister and solicitor be accepted.

The motion was *carried.*

It was moved and seconded that Convocation by Order disbar the solicitor and that his name be struck off the Roll of Solicitors and that his membership in the Society be cancelled.

The motion was *carried.*

. . . . . .

## FINANCE COMMITTEE–Mr. Shepherd

Mr. J.C. Pallett, Vice-Chairman, presented the Report of the Finance Committee of its meeting on Thursday, 7th October, 1976.

The following members were present: Messrs. Shepherd (Chairman), Fennell, Ground, Ogilvie, Pallett and Wilson.

### ROLLS AND RECORDS

*Appointment to the Bench*

The following member has been honoured by his appointment to judicial office and his membership in the Society will be placed in abeyance upon his assuming office:

| | |
|---|---|
| David Frederick Kent, Q.C.<br>Sarnia | Called – 26 June 1958<br>Appointment Provincial Judge, Family Division, County of Lambton – 1 October 1976 |

*Noted*

*Deaths*

The following members have died:

| | |
|---|---|
| Desmond Hope Gibson<br>Hamilton | Called – 16 September 1948<br>Deceased – 26 June 1976 |
| Abraham Hirsh Friedgut, Q.C.<br>Toronto | Called – 21 June 1945<br>Deceased – 6 September 1976 |

| | |
|---|---|
| J. Harold Wood, Q.C.<br>Toronto | Called – 15 November 1928<br>Deceased – 15 September 1976 |
| Douglas Garner Kerr, Q.C.<br>Chatham | Called – 21 October 1926<br>Deceased – 31 August 1976 |
| Homer W. Ross Kennedy<br>Toronto<br>(Life Member) | Called – 19 June 1924<br>Deceased – 28 September 1976 |
| Frank Charles Studdart Evans, Q.C.<br>Goderich<br>(Life Member) | Called – 25 May 1923<br>Deceased – 3 August 1976 |
| Paul Nicholas Villanyi<br>Toronto | Called – 19 April 1963<br>Deceased – 28 September 1976 |
| Frank Joseph Flynn, Q.C.<br>St. Catharines<br>(Life Member) | Called – 21 October 1920<br>Deceased – 23 September 1976 |
| Gary Thomas Meanchoff<br>Toronto | Called – 22 March 1974<br>Deceased – 26 September 1976 |

*Noted*

**MEMBERSHIP RESTORED**

*The Hon. Arthur Joseph Kelly, Q.C.* gave notice under section 31 that he had retired as a Justice of the Court of Appeal for Ontario and wished to be restored to the Rolls of the Law Society. Accordingly, his membership was restored 17th September, 1976. He became a Life Member of the Society, having been called to the Bar on 13th September, 1923.

*Noted*

**MEMBERSHIP UNDER RULE 50 – RETIRED MEMBERS**

*Frank Elmer McMahon* of Toronto, who is sixty-five years of age or over and who is fully retired from the practice of law and other employment, requested permission to continue his membership in the Society at a reduced annual fee of $25.

*Approved*

**CHANGE OF NAME**

*Avrom Mark Gottlieb,* a student member, requested that his name be changed on the Rolls of the Society to *Mark Avrom* Gottlieb. A copy of the Order of His Honour Judge Allen dated

2nd September, 1976, was before the Committee.

*Beverley Janet Alice Wilson* was admitted to the Bar Admission Course in June 1973. After completing her service under articles, she sought and was granted deferment from the teaching term to take a position as Associate Professor at Queen's University. She elected to proceed under Regulation 9 which governs the admission of law teachers and will be called to the Bar on 15th October, 1976. The applicant wished to be called under the name of Beverley *Baines* Wilson, thus including her maiden name.

*Approved*

**ANNUAL FINANCIAL STATEMENT**

The draft financial statement for the year ended June 30th, 1976, incorporating revisions requested by this Committee, was submitted to Convocation on September 17th, 1976. The statement in final form was approved.

**1976/77 BUDGET**

The 1976/77 Budget was approved.

**ARCHITECT'S ACCOUNT**

The following account from Mr. Arthur Heeney was ratified and approved:

| | |
|---|---|
| September 14, 1976 – Professional services rendered for consulting with Law Society officials, Provincial Government officials, and planning the library and locker rooms to be moved from the third floor at 145 Queen Street West to basement of this building | $763.58 |

**GROUP LIFE INSURANCE**

The Committee recommended that the amount of life insurance for employees be increased to an amount equal to twice the annual salary to a maximum insurance of $50,000.

**LEGAL EDUCATION COMMITTEE**

The Committee recommended the rental of additional

automatic typing and composition equipment and the hiring of two operators at a total combined annual cost of $27,500.

**THE REPORT WAS ADOPTED**

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**BUILDING COMMITTEE**

The Treasurer informed Convocation of the progress of the building extension and renovation project and that, since 1st December, 1975, the estimated total cost had increased from $1,900,000 to $2,116,600.

Convocation wished Mr. Heeney to proceed with the preparation of work drawings, and the Building Committee to bring to Convocation in November a report and recommendation with respect to the project and the cost of it.

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## DISCIPLINE COMMITTEE (Continued)

### GENERAL

Mr. G.H. Lochead, Chairman, presented the General Report of the Policy Section of the Discipline Committee of its meeting on Wednesday, 6th October, 1976.

The following members were present Messrs. Lochead (Chairman), Bynoe (Vice-Chairman), Cartwright, Cooper, Evans, Furlong, Humphrey and Kellock.

**SOLICITORS' NEGLIGENCE**

The Committee, on the basis of certain information brought to its attention, instructed that Complaints be issued against two solicitors and an Invitation to Attend be extended to a third. The Committee was of the opinion that there are reasonable grounds to believe that the lawyers concerned have been guilty of professional misconduct in that there have been a multiplicity of incidents that appear to involve negligence on

their part.

**FORM 2**

The Committee gave further consideration to the amendment of Section 8 of this Form in the light of comments of the Legislation and Rules Committee and members of Convocation, and made further recommendations with respect to the wording of Section 7.

The Committee considered a memorandum from Robert L. Anderson, the Society's auditor, in which he proposed certain amendments to Form 2 as a result of his experience in administering the annual filing programme. Copies of Mr. Anderson's report, the present Form 2 and the amended Form 2 reflecting the Committee's recommendations were before Convocation.

It was moved and seconded in Convocation that the part of amended Form 2 which provides for a schedule of payments to The Law Foundation of Ontario be deleted from the Form.

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**CONVOCATION ADJOURNED FOR LUNCHEON AT 12:50 P.M.**

. . . . . .

The Treasurer and Benchers had as their guests for luncheon The Honourable Mr. Justice Hugh D. Garrett, recently appointed to the High Court of Justice of the Supreme Court of Ontario, and Dean D.L. Johnston of the Faculty of Law, University of Western Ontario.

. . . . . .

**CONVOCATION RESUMED AT 2:30 P.M.**

. . . . . .

**PRESENT:**

The Treasurer and Messrs. Cartwright, Cass, Common, Furlong, R.J.S. Gray, Ground, Kellock, Mrs. Legge, Messrs. Linden, Lochead, Montgomery, Ogilvie, Pallett, Pepper, Rogers, Salhany, Seagram, Mrs. Tait, Messrs. Wallace, White and Willoughby.

. . . . . .

## DISCIPLINE COMMITTEE (Continued)

Discussion of the motion before Convocation continued. The motion was *withdrawn.*

**THE REPORT WAS ADOPTED**

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## COMPENSATION FUND SUMMARY

Mr. Lochead presented the Summary of the Compensation Fund for the period ended 30th September, 1976.

### COMPENSATION FUND

**For The Period 1st July, 1976 to 30th September, 1976**
**(3 months)**

| | |
|---|---|
| TOTAL RECEIPTS | $ 24,252.43 |
| TOTAL DISBURSEMENTS | $ 78,283.47 |
| EXCESS OF DISBURSEMENTS OVER RECEIPTS | $ (54,031.04) |
| BALANCE OF FUND 1st July 1976 | $1,486,468.30 |
| BALANCE OF FUND 30th September 1976 | $1,432,437.26 |

### RESUME OF GROSS CLAIMS OUTSTANDING

| | |
|---|---|
| CLAIMS RECEIVED and in the course of being processed as of 30th September 1976 | $3,162,209.34 |
| TOTAL PAID to 30th September 1976 from the commencement of the Fund on account of 955 claims of 102 former solicitors | $3,606,323.87 |

THE SUMMARY WAS RECEIVED

. . . . . .

## LEGAL AID COMMITTEE—Mr. Bowlby

Mr. J.B. Chadwick, Vice-Chairman, presented the Report of the Legal Aid Committee of its meeting on Wednesday, 6th October, 1976.

The following members were present: James B. Chadwick, Vice-Chairman in the Chair, Mrs. Fleming, Messrs. Hamer, Humphrey, Mrs. Jarmain, Messrs. Lamb, Lewis, Ogilvie, Shaffer, Mrs. Smyth, Miss Vaughan, Mr. Wallace.

Arthur C. Whealy, Solicitor, Toronto, was also in attendance at the meeting as an observer from the Criminal Lawyers Association.

### REPORT OF THE DEPUTY DIRECTOR

*Finance*

The following is a comparison of the actual net expenditure of the Legal Aid Fund for the first five months of this fiscal year with the budget as now imposed by the Province of Ontario.

Both sets of figures are pro-rated to a 5 month period and all amounts are expressed in thousands of dollars.

| | *Actual Cost to Aug. 31, 1976* | *Legal Aid Budget* | *Under (Over) Legal Aid Budget* | | *Province Budget* | *Under (Over) Province Budget* | |
|---|---|---|---|---|---|---|---|
| **Fees and Disbursements** | **$ ,000** | **$ ,000** | **$ ,000** | | **$ ,000** | **$ ,000** | |
| Criminal | 5,630.5 | 5,829.0 | 198.5 | under | 3,899.4 | (1,731.1) | over |
| Civil | 3,197.5 | 3,024.0 | (173.5) | over | 2,318.7 | (878.8) | over |
| Advice | 70.0 | 116.1 | 46.1 | under | 71.6 | 1.6 | under |
| Duty Counsel | 928.4 | 1,460.5 | 532.1 | under | 1,145.9 | 217.5 | under |
| | 9,826.4 | 10,429.6 | 603.2 | under | 7,435.6 | (2,390.8) | over |
| Community Legal Service Groups | 348.5 | 118.4 | (230.1) | over | 395.9 | 47.4 | under |
| Student Legal Aid Societies | 102.0 | 102.0 | – | | 102.0 | – | |
| Area Office Costs | 1,088.8 | 1,137.4 | 48.6 | under | 1,125.7 | 36.9 | under |
| Administrative Expenses | 741.7 | 834.2 | 92.5 | under | 775.6 | 33.9 | under |
| | 12,107.4 | 12,621.6 | 514.2 | under | 9,834.8 | (2,272.6) | over |
| **Less:** | | | | | | | |
| Client Contributions and Costs | 806.4 | 833.4 | 27.0 | under | 833.4 | 27.0 | under |
| Miscellaneous Income | 60.1 | 26.1 | ( 34.0) | over | 26.2 | (33.9) | over |
| Total Net Expenditure | 11,240.9 | 11,762.1 | 521.2 | under | 8,975.2 | (2,265.7) | over |

*Statistics*

The following table compares area office activity for the first five months of this fiscal year with the same period last year.

| | *5 months to Aug. 31, 1976* | *5 months to Aug. 31, 1975* | *% change from last year* |
|---|---|---|---|
| Informal applications | 39,915 | 39,956 | – 0.1 |
| Applications for certificates | 42,354 | 44,515 | – 4.8 |
| Refusals | 13,616 | 11,945 | + 14.0 |
| Certificates issued | 32,312 | 35,653 | – 9.3 |
| Persons assisted by Duty Counsel | 64,014 | 60,339 | + 6.1 |

*Write-Offs*

George E. Wallace, Vice-Chairman, approved the write-off of the following total of amounts due to the Legal Aid Fund: $46,242.22.

## REPORT OF THE LEGAL ACCOUNTS OFFICER

*Reviews*

| | *September 1976* | *6 months to Sept. 1/76* | *6 months to Sept. 1/75* |
|---|---|---|---|
| Reviews on hand at beginning of | 64 | – | – |
| Reviews received in | 140 | 738 | 356 |
| | 204 | | |
| Settlements reviewed in | 67 | 641 | 321 |
| Settlements awaiting review at end of | 125 | | |
| Settlements awaiting further information at end of | 12 | – | – |
| | 204 | | |

*Appeals*

| | *July* | *August* | *September* |
|---|---|---|---|
| Appeals to Taxing Master received during September | – | – | 3 |
| Appeals heard by Taxing Master | – | – | 1 |
| Appeals pending at the end of the month | 3 | 4 | 6 |
| Appeals abandoned | – | – | – |

*Activity*

| | 1976/77 Fiscal Year | | 1975/76 Fiscal Year | |
|---|---|---|---|---|
| | *Month of Sept.* | *6 months to Sept. 30* | *Month of Sept.* | *6 months to Sept. 30* |
| Accounts on hand at beginning | 4549 | 5087 | 7939 | 8839 |
| Accounts received | 5027 | 31479 | 4906 | 29845 |
| Total accounts to be processed | 9576 | 36566 | 12845 | 38684 |
| Less: Files cancelled | 32 | 204 | 28 | 188 |
| Accounts processed | 4970 | 31788 | 6745 | 32424 |
| Balance | 4574 | 4574 | 6072 | 6072 |

The above figures do not reflect accounts for Interim Disbursements and Supplementary Payments.

**EMPLOYEE BENEFITS –**
**IMPROVED LIFE INSURANCE**

Dermot J. McCourt, Deputy Provincial Director, presented to the Committee a memorandum outlining the present life insurance coverage provided to the employees of the Legal Aid Plan.

The Law Society was advised that under The Employment Standards Act the discriminatory aspects of the plan must be removed and that it will now be necessary to provide all employees with the same life insurance benefits currently available only to married male employees.

The Deputy Director recommended that the present maximum of $20,000 of life insurance paid on an employee's death be increased to $50,000 to reflect current salary levels.

After reviewing the matter the Committee recommended that the life insurance benefits be amended in accordance with the Deputy Director's memorandum, subject to the approval of the Finance Committee of The Law Society of Upper Canada.

**FUNDING OF INDEPENDENT COMMUNITY–**
**BASED LEGAL SERVICES GROUPS**

A meeting of the Clinical Funding Committee was held on Thursday, 16th September, 1976, the following being present:

James B. Chadwick, Solicitor, Ottawa – Chairman

L.K. Ferrier, Solicitor, Toronto

A.G. Campbell, Senior Counsel, Policy Development Section, Ministry of the Attorney General

John B. Allen, Special Assistant to the Provincial Director

After careful consideration the Committee approved the Sub-Committee's report and noted that Parkdale Community Legal Services had withdrawn a request to appear before the Committee at its October meeting to make further representation as to funding.

The Committee was concerned that there are no specific criteria by which to determine further applications for funding, particularly in the case of clinics which were not in existence when the new regulation was filed.

The Chairman of the Sub-Committee informed the Committee that he had requested a meeting with the Attorney General to discuss the Plan's concerns in this area.

**AUDITED REPORT OF THE FISCAL YEAR ENDED MARCH 31ST, 1976**

The Provincial Auditor has completed his examination of the accounts of the Legal Aid Fund for the year ended March 31st, 1976.

A copy of the audited financial statements, the auditor's report thereon and the response of the Ontario Legal Aid Plan to certain comments in that report were presented to the Committee.

**USE OF PARALEGAL PERSONNEL IN AREA OFFICES**

W.R. Donkin, Area Director, York County, presented a report to the Committee on the training of paralegal personnel in the Area Directors' offices.

At the present time it is not possible for all Area Directors to be present whenever applicants attend at Legal Aid Offices. The permanent non-legal staff are present and some have acquired some expertise in various matters connected with

Legal Aid but there has been no organized attempt to equip them to deal with the public in a knowledgeable and reasonable and efficient manner. When the plan was originally designed, these employees were categorized as secretaries or clerks but they are now called upon to perform duties beyond those originally envisaged. This situation will become more critical if regionalization occurs. Regionalization will not be possible without a trained group of laymen of known capability present in the offices at all times.

It is proposed that courses be developed to train existing personnel and new personnel to perform the function outlined above. The method of teaching must meet the following requirements:

1. Reasonable in cost;
2. Capable of being repeated as new staff joins the plan to replace or supplement existing staff;
3. Capable of being taught without taking staff away from their positions for any extended time;
4. Directed specifically to the requirements of a person working in a Legal Aid Office.

After extensive debate the Committee recommended that paralegal training be provided for such people as Area Directors may recommend and that the form of the course be subject to further approval by the Committee.

**INFORMATION BANK ON LEGAL AID IN CANADA**

At a meeting of the Provincial Directors in January, 1976, it was decided to investigate the feasibility of setting up an information bank on legal aid in Canada on a two-year pilot project basis. Information as to the type of legal aid existing throughout Canada, advertising programmes, computer programmes, statistical information, etc., would be forwarded to the bank and such information would be distributed to the various Legal Aid Plans in Canada.

The Provincial Directors decided that the centre should be located in Montreal and that efforts should be made to obtain the necessary funding for this experimental programme from

the Donner Foundation, other foundations and the Federal Department of Justice.

The Legal Aid Committee approved in principle the project. Representatives of the Federal Department of Justice have recommended a commitment of $10,000 for the first year and $25,000 for the second. The monies that have been pledged are as follows:

| *Source* | *First Year* | *Second Year* |
|---|---|---|
| Donner Foundation | $40,000 | $25,000 |
| University of Montreal | 10,000 | 12,000 |
| Federal Department of Justice (not yet confirmed) | 10,000 | 25,000 |
| Provincial Plans (including $1,000 from Ontario) | 5,500 | – |
| Quebec Department of Justice | 5,000 | 10,000 |
| | $70,500 | $72,000 |

On Friday, September 10th, John B. Allen, Special Assistant to the Provincial Director, attended a meeting in Montreal with respect to the proposed Information Bank. It was pointed out at this meeting that the initial proposed budgets were inadequate having been overtaken by inflation. The best information indicated that a more realistic budget for the first year would be $70,000 and for the second year $92,000. The Provincial Legal Aid Plans were called upon to pledge a sum approximating $20,000; Ontario was asked to provide a further commitment of $10,000 ($1,000 having already been pledged), leaving the balance to be taken up among other Legal Aid Plans.

As noted above the Quebec Commission has obtained a commitment from the province's Justice Department of $5,000 for the first year and $10,000 for the second year.

In view of the economic restraints now being emphasized and in view of the fact that there was no assurance that the information bank will be of any lasting benefit, the Committee did not approve that the sum of $10,000 be provided from the Legal Aid Fund. However, the Committee suggested that this

matter be referred to the Ministry of the Attorney General in order to acquaint the province with the request. It may be that the Ministry will be interested in participating in this project.

**AREA COMMITTEES**

Section 4(1) of The Legal Aid Act provides that the Law Society may appoint a Legal Aid Committee for an area.

The Committee recommended the following be appointed as members of the Area Committees in:

**Essex County**

Michael Ray, Director of Legal Assistance, Windsor.
Joseph Comartin, Barrister and Solicitor, Windsor.

**Ontario County**

Neil McCrank, Oshawa.
George Wright, Oshawa.

**Niagara North**

Edward Wand, Law Librarian, St. Catharines.
H.W. Edmondstone, Q.C., St. Catharines.
C.M. Kray, Solicitor, St. Catharines.

**RESIGNATIONS**

**Niagara North**

J.R. Barr, St. Catharines.
B.W. Doliszny, Q.C., St. Catharines.

**Ontario County**

Russell J. Murphy, Oshawa.

**THE REPORT WAS ADOPTED**

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**MOTION RE LEGAL AID**
**ADOPTED AT ANNUAL MEETING, 1975**

The Treasurer referred to the motion passed at the 1975 Annual Meeting respecting Legal Aid and to the motion passed

in Convocation on 21st May, 1976 respecting consideration by Convocation of that resolution, and invited Convocation to consider those matters.

It was moved, seconded and *carried* that Convocation having considered the motion as amended which was tabled at the last Annual Meeting of the Society records that it approves of it and has recommended to the Government of Ontario that it implement at the earliest possible opportunity the principles set forth in Part I of the Report of the Osler Task Force on Legal Aid in such a manner as to maximize coverage of the Plan, leave control of the Plan in the hands of the Law Society, and provide effective participation by the public in the control and administration of the Plan.

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## PROFESSIONAL CONDUCT COMMITTEE–Mr. Cooper

Mr. B.H. Kellock, Vice-Chairman, presented the Report of the Professional Conduct Committee of its meeting on Thursday, 7th October, 1976.

The following members were present: Messrs. Kellock (Vice-Chairman acting as Chairman), Strauss and Mrs. Sutherland.

### 1. SECTION 23 OF THE REGULATION MADE PURSUANT TO THE LAW SOCIETY ACT

Section 23 reads as follows:

**CODE OF ETHICS**

23.–(1) The Professional Conduct Committee is authorized to prepare and publish a handbook containing the code of professional conduct and ethics and the rulings with respect thereto under the title "Professional Conduct Handbook".

(2) Until such time as a new edition of the Professional Conduct Handbook is published, the Secretary shall furnish a copy of the current edition thereof to every

person who becomes a member or student member and, upon request, to any other person.

(3) When a new edition of the Professional Conduct Handbook is published, the Secretary shall furnish a copy thereof to every member and student member and, upon request, to any other person.

At a recent meeting of the Committee, called to consider the report of the Sub-Committee on the integration of the Canadian Bar Association's Code and the Society's Rules of Professional Conduct, concern was expressed that possibly the authorization set out in this section had been exhausted by the work done previously with respect to the various Rulings of Professional Conduct. The Committee, therefore, recommended that, since the present Section 23 appears to be too specific and its force might well be spent, there be an amendment to this section. The proposed amendment would cover the preparation, publication, distribution, and, subject to the approval of Convocation, the amendment of the various Rules of Professional Conduct from time to time.

2. A lawyer advised the Committee that he had been approached by a representative of the collection department of a chartered bank with respect to the setting-up of a plan for collection of overdue accounts.

The plan as envisaged would be carried out as follows:

1. The staff of the chartered bank would draft the writs of summons, all of which would be specially endorsed. The draft writs would then be forwarded to his office, along with particulars of the claim. A file would be opened with respect to each claim.

2. He would review each writ to ensure that it was properly specially endorsed and sign same and have an agent from his office attend to the issuance of the writ and service of same.

3. Provided that no defence was entered to the claim, the staff at the bank would prepare the papers necessary to sign judgment, which papers would be forwarded to his office and inspected. An agent from

his office would attend at the County Court Clerk's office in order to sign judgment. Following judgment, the staff at the bank would be responsible for collection save and except for the matters which require a solicitor, such as bankruptcy proceedings or moving for the arrest of a debtor.

4. Any matter upon which a defence was entered would be dealt with entirely within his office until judgment was obtained or the proceedings dismissed.

He goes on to say that in his discussion with the bank they had not agreed upon a proper scale for fees for the services to be provided. It is contemplated that a block fee would be charged for matters upon which no work is involved other than perusal and approval of the writ of summons and materials necessary to sign judgment, plus extra fees on an hourly basis if a matter is defended or if his services are necessary with respect to collection. The lawyer, in view of the fact that much of the documentation would be prepared outside of his office, has asked for the Committee's opinion prior to embarking on this course of conduct.

The Committee was strongly of the view that the proposed arrangement was not acceptable. For a lawyer to enter into such a course of conduct would be to delegate the normal functions of a lawyer to non-legal personnel. The Secretary was instructed to so advise the enquiring party.

**3.** A lawyer forwarded to the Committee a draft of an agreement to be entered into by himself and a patent attorney who is not a lawyer. He asked whether the execution of the agreement would involve any breaches of the Society's Rules or code of ethics. Considering that he would be doing both legal and patent attorney work he was concerned as to what features distinguish legal services from agency services indicating that he did not want to get into a fee splitting situation with a non-lawyer.

When considering this enquiry the Committee referred to Ruling 28 of the Rules of Professional Conduct and concluded that the arrangement set out in the agreement would

contravene the provisions of this Ruling. The Secretary was instructed to so advise the lawyer.

**THE REPORT WAS ADOPTED**

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## LIBRARIES AND REPORTING COMMITTEE–Mr. Seagram

Mr. C. J. Seagram, Chairman, presented the Report of the Libraries and Reporting Committee of its meeting on Thursday, 7th October, 1976.

The following members were present: Messrs. Seagram (Chairman), Chappell, Rogers, Salhany and Strauss, and Miss A.R. McCormick.

## GREAT LIBRARY

### BARRISTERS' LIBRARY – 145 QUEEN STREET WEST

The Committee considered a memorandum which indicated that certain changes should be made at this library. The Committee recommended that the robing rooms and lockers used by the barristers should be moved from the fourth floor to the basement into a space next to the library with the cost to be paid by the Government of Ontario. The Committee also recommended that if possible the space now used for the robing rooms and lockers on the fourth floor be retained for use by the barristers. The Secretary was instructed to report to the November meeting on all of the items in the memorandum which dealt with necessary improvements.

## COUNTY LAW LIBRARIES

### CENTRAL ADMINISTRATIVE PROGRAMME

The Committee considered a request to The Law Foundation of Ontario for grants in 1976. The grants requested would

continue purchases started last year to bring County Law Libraries up to a basic minimum standard and provide for maintenance and payment of salaries.

The Committee recommended that the request to The Law Foundation of Ontario should be for an interim amount of $125,000 (including any monies already advanced by the Law Foundation) plus $30,000 for administration. The Committee also recommended that the Trustees of the Law Foundation be urged to give serious consideration to the submission which was made to the Foundation for $402,254 on October 5, 1976.

**THE REPORT WAS ADOPTED**

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## UNAUTHORIZED PRACTICE COMMITTEE–Mr. White

Mr. J. G. M. White, Chairman, presented the Report of the Unauthorized Practice Committee of its meeting on Thursday, 7th October, 1976.

The following members were present: Messrs. Fennell (Acting Chairman), Cass, Furlong, Mrs. Legge, Messrs. Seagram and Strauss.

1. The Committee considered a complaint from a Toronto solicitor concerning an individual who was carrying on a divorce kit business. The Committee instructed the Secretary to refer this matter to counsel for an investigation and suggested that counsel should contact the solicitor who wrote to the Society to obtain his co-operation.

2. The Committee considered a letter from a law student who is Chairman of Community and Legal Aid Services Programme at Osgoode Hall Law School. The law student advised that a qualified solicitor was now spending two days a week supervising the law students' work and reviewing their procedures and records. The Committee was concerned about law students giving legal advice and requested that some action be taken by Convocation.

3. The Committee considered a letter from a Thunder Bay solicitor concerning a client of his who had received a form letter indicating how the client could incorporate his own company. The Committee instructed the Secretary to refer this matter to counsel in Thunder Bay for an investigation and if there was sufficient evidence to commence a prosecution under Section 50 of The Law Society Act.

4. The Committee considered a letter from a Fort Frances solicitor outlining the number of real estate transactions that had been closed and documents registered by a Local Clerk and Justice of the Peace between June 10th, 1976 and September 21st, 1976. The Secretary was instructed to retain counsel to carry out an investigation and see if there was sufficient evidence to commence a prosecution for unauthorized practice under Section 50 of The Law Society Act.

5. The Committee considered a letter from two legal secretaries who proposed starting up a business to assist individuals in doing their own real estate transactions. The Secretary was instructed to acknowledge the letter and state that the type of business suggested may be a contravention of Section 50 of The Law Society Act.

6. The Committee considered three matters concerning divorce kit agencies in Toronto which had been referred to counsel earlier in the year for investigation. In each case counsel advised that there was insufficient evidence to prosecute, unless he was authorized to use an investigator. The Committee's view was that the services of an investigator should be retained in an attempt to obtain the necessary evidence required.

**THE REPORT WAS ADOPTED**

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**SPECIAL COMMITTEE ON**
**J. SHIRLEY DENISON BEQUEST**

Mr. R. W. Cass presented the Report of the Special Committee on J. Shirley Denison Bequest of its meeting on Thursday, 7th October, 1976.

The following members were present: Mr. Shepherd in the Chair, Messrs. Carthy and Cass.

**STUDENT APPLICATIONS**

Applications for grants were received from fifteen students. A memorandum from the Assistant Director of the Bar Admission Course recommended that only one of these grants be made.

The Committee adopted this recommendation.

**APPLICATION**

The Committee considered an application for a grant and recommended that a grant be made.

**THE REPORT WAS ADOPTED**

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**CONVOCATION ROSE AT 4:30 P.M.**

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Read in Convocation and confirmed 19th November, 1976.

W. GIBSON GRAY

Treasurer

THE LAW SOCIETY OF UPPER CANADA

# Minutes of Convocation

Volume 1 Number 7

# MINUTES OF CONVOCATION
## (ABRIDGED)

Friday, 19th November, 1976
10:00 a.m.

**PRESENT:**

The Treasurer (Mr. W. Gibson Gray) and Messrs. Bowlby, Brulé, Carnwath, Cartwright, Cass, Chadwick, Chappell, Farquharson, Fennell, Finlayson, Furlong, Goodman, R.J.S. Gray, Ground, Henderson, Humphrey, Kellock, Mrs. Legge, Messrs. Lochead, Montgomery, O'Brien, Ogilvie, Pepper, Rogers, Salhany, Seagram, Sheard, Shepherd, Strauss, Mesdames Sutherland and Tait, Messrs. Thom, Tobias, Wallace, White, Williston, Willoughby and Zahoruk.

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**MINUTES**

The Minutes of Convocation of 15th October, 1976 were read and confirmed.

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**APPOINTMENT TO SPECIAL COMMITTEE**

The Treasurer informed Convocation that he had added Mr. P.G. Furlong to the Special Committee on Convocation and Election of Benchers so that the Special Committee now consists of Messrs. Common (Chairman), Finlayson, Furlong, Goodman, Ground, Ogilvie, Tobias and Wallace.

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**APPOINTMENT OF REPRESENTATIVE**

It was moved, seconded and *carried* that Mr. W.B. Common be appointed the Society's representative to the Canadian National Exhibition Association for the year 1977.

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## BUILDING COMMITTEE–The Treasurer

At the request of the Treasurer, Mr. A.E. Shepherd presented the Report of the Building Committee of its meeting on Monday, 15th November, 1976.

The following members were present: Messrs. W. Gibson Gray (Chairman), Common, Thom, and Mrs. Legge.

Messrs. Shepherd and Heeney were present at the Chairman's request.

### BUILDING PROGRAMME

On 5th December, 1975, Convocation approved, in principle, of a plan for the renovation and extension of the Society's portion of Osgoode Hall at an estimated cost of $1,916,028.

On 20th February, 1976, Convocation approved the recommendations of the Sub-Committee (Finance) on Financing of Building Extension and Renovation.

The Treasurer advised Convocation on 15th October, 1976, that the estimated cost of the project had been increased by the addition of new items, details of which would be laid before Convocation in November.

Mr. Heeney reported to the Building Committee at its meeting on 15th November that the estimated cost of the project was $2,114,440, made up as follows:

| | | |
|---|---|---|
| Original estimate contained in Mr. Heeney's report of 19th November, 1975. | | $1,916,028 |
| Plus the cost of re-planning the area immediately north of the Benchers' Dining Room to include elevator framing in which an elevator can be placed in the future to carry materials from the basement to the top of the building. This was considered desirable for, among other things, future expanded use by the Library of the third floor rooms over top of the Benchers' quarters. | $ 64,146 | |
| Although not normally included in construction cost estimates, the Committee considered it desirable to add in the estimated | | |

| | | |
|---|---|---|
| cost of furnishing the new and altered areas of the building. Wherever possible, furniture and equipment from existing inventory will be used. Estimated cost. | 63,776 | |
| The original estimated cost did not include the 1% management contract fee. There should also be added in the architect's fee on the increased expenditure. These together total | 31,490 | |
| Mr. Heeney has recommended certain alterations in the plans to accommodate wheel chairs and the Committee recommended that these changes be incorporated at an estimated cost of | 39,000 | |
| Total increase | $198,412 | 198,412 |
| Total estimated cost | | $2,114,440 |

The Chairman of the Finance Committee reviewed the Report of the Sub-Committee (Finance) on Financing of Building Extension and Renovation which was approved by Convocation on 20th February. It provided for the financing of the project over a five-year period. The first of those years had passed and the planned appropriation had been made. The Committee was satisfied that the ways and means already approved by Convocation made adequate provision for meeting the estimated cost of the project.

Mr. Heeney reported that the drawings will be completed within one week so that tenders can be sought for the work. It was expected that tenders will be in by the 15th of December so that they can be included in the management contract.

The Committee recommended that the Treasurer be authorized to proceed with the execution of the management contract subject to returning the matter to the Committee and Convocation if the new estimated cost of the sub-trades' tenders was not reasonably in line with the figures which had been approved.

**THE REPORT WAS ADOPTED**

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## LEGAL EDUCATION COMMITTEE–Mr. Finlayson

Mr. G.D. Finlayson, Chairman, presented the Report of the Legal Education Committee of its meeting on Thursday, 11th November, 1976.

The following members were present: Messrs. Brulé, R.J. Gray, Kellock, Montgomery, Rogers, Salhany, Shibley and Mrs. Tait.

**FACULTY APPOINTMENTS (Toronto, Ottawa and London, as indicated)**

It was recommended that the following appointments be made for the teaching term which commenced September 7, 1976:

*(a) Corporate and Commercial Law Section:*

To continue as Head of the Section, Allen Karp.

Group Instructors (Osgoode Hall): V.P. Alboini, John Armstrong, S.V. Arnold, J. Blinder, A.L. Cader, J.R. Collins, J.W. Craig, G.R. Cunningham, J.J. Fineberg, Barry Fisher, G.C. Glover, B.J. Hutzel, E.P. Kerwin, R.E. Milnes, A.W. Oughtred, W.T. Pashby, Murray Perelman, J.M. Potwin, W.R. Prueter, S.P.H. Robinson, S.B. Scott, Harvey Shapiro, R.A. Shaw, S.M. Sigel, T.J. Tone, J.H. Whiteside, G.A. Wilson, Frank Zaid.

Group Instructors (Ottawa): K.L.W. Boland, R.D. Chapman, P.W. Fortier, R.W. Groulx, F.J. Holmes, Pierre Richard, G.F. Windsor.

Group Instructors (London): G.B. Carmichael, J.M. Driesman, C.L. MacKenzie, Q.C., P.R. Lockyer.

Stand-by Instructors (Osgoode Hall): A.W.A. Bellstedt, R.J. Carew, David Jackson, John Pennal, Martin Rochwerg, A.H. Whittaker.

Stand-by Instructors (London): B.V. O'Donovan, D.R. Ross.

*(b) Law Office Organization and Procedure Section:*

Group Instructor (London): E. Cameron Somerville, Q.C. in place of Alexander M. Jeffery, resigned.

*(c) Family Law Section:*

To continue as Head of the Section, J.C. MacDonald, Q.C.

Group Instructors (Osgoode Hall): T.G. Bastedo, G.W. Brigden, Q.C., D.J. Brown, T.W. Caskie, Miss Rodica David, N. Nolasco da Silva, A.B. Doran, P.M. Epstein, L.K. Ferrier, F.G. Gans, G.P. Johnstone, R.J. Klassen, M.C. Kronby, Benjamin

Laker, Q.C., M.D. Lipton, D.H. Lissaman, Q.C., T.J. Lockwood, C.S. Martin, R.D. Preston, R.R. Richman, G.K. Selzer, Philip Spencer, S.B. Smart, D.M. Starzynski, H.D. Stewart, Q.C., G.T. Walsh, Q.C., T.C. Warne, Mrs. Karen Weiler.

Group Instructors (Ottawa): Lloyd Brennan, Leonard Levencrown, M.F. Monaghan, Leonard Max, Mrs. M.J.B. Rice, W.L. Riley, J.D. Snipper.

Group Instructors (London): J.F. Foreman, B.T. Granger, Alfred Mamo, J.S.M. Mitchell.

Stand-By Instructors (Osgoode Hall): D.J. Catalano, Q.C., J.R.R. Jennings, C.C. Mark, Miss R.E. Mesbur, R.J. Otter, Philip Reinstein, J.D. Sheard, Q.C., R.D. Timms,

Stand-By Instructor (Ottawa): H.G. Doyle

Stand-By Instructors (London): R.A. Beccarea, J.J. Comartin, P.M. Ledroit.

*Approved*

**LONDON BAR ADMISSION COURSE – Lease**

The lease for the London Bar Admission Course was forwarded by Mr. W.A. Jenkins, Q.C. for execution by the Law Society.

The Committee recommended that the lease be approved and the Secretary authorized to execute it on behalf of the Society subject to the clause respecting Insurance being approved by Mr. Levinter.

**MARCH SPECIAL LECTURES SERIES 1977, CANADIAN BAR ASSOCIATION – NATIONAL PROFESSIONAL SERVICES COMMITTEE**

Mr. R.H. Vogel of Vancouver, wrote to Mr. Ground respecting the Society's March Special Lectures period. Mr. Vogel was responsible for the Canadian Bar Assocation's National Professional Services Committee which had as one of its aims the publication of a model partnership agreement. He asked the Society for permission to make use of the tapes and materials produced for the Society's March lecture series to be used to assist the National Professional Services Committee to finalize their model partnership agreement.

It was understood that the use by the National

Professional Services Committee of the Society's tapes and material would not include publication of any part of them.

The Committee recommended that Mr. Vogel's request be granted.

**MEETING WITH COMMITTEE OF LAW SCHOOL DEANS**

The Committee recommended that the Society arrange a meeting with the Committee of Law School Deans and with representatives of the Society including the members of the Admissions Committee and that the meeting conclude with dinner in Osgoode Hall.

**COMBINED LL.B. – M.B.A. DEGREE – UNIVERSITY OF WESTERN ONTARIO**

The Councils of the Faculty of Law and of the School of Business Administration at the University of Western Ontario approved for submission to their Senate and Board of Governors a proposal for a combined Bachelor of Laws and Bachelor of Administration Degree which would be obtainable on the basis of four academic years plus two summers' internship within those four years.

The Committee recommended this proposal be referred to the Sub-Committee on Approved LL.B. degrees for consideration.

**BAR ADMISSION COURSE AND CONTINUING EDUCATION**

The Committee dealt with eight petitions. Four petitioners sought permission to vary the period for service under articles; three petitions were granted and one denied. Three petitioners sought permission to defer entering the teaching term of the Bar Admission Course; two were approved and one denied. The remaining petitioner, a student serving under articles, requested permission to postpone payment of the student membership fee of $101 without payment of the additional fee for late filing; the petition was refused.

The Committee considered financial statements for the Bar Admission Course and Continuing Education and reviewed the statement of Continuing Education Programmes held during

October 1976 and the publications report for the month of October 1976.

THE REPORT WAS ADOPTED

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## ADMISSIONS COMMITTEE–Mr. Pepper

Mr. P.B.C. Pepper, Chairman, presented the Report of the Admissions Committee of its meeting on Thursday, 11th November, 1976.

The following members were present: Mr. P.B.C. Pepper, Chairman, Mrs. L.L. Legge, Vice-Chairman, and Messrs. Finlayson, R.J. Gray, Ground, Henderson, White and Mrs. Sutherland.

### CALL TO THE BAR AND CERTIFICATE OF FITNESS

#### Bar Admission Course

The following candidate, having successfully completed the Seventeenth Bar Admission Course, filed the necessary documents and paid the required fee of $210, applied for Call to the Bar and to be granted a Certificate of Fitness:

David Joseph Stearn

*Approved*

### CALL TO THE BAR FOR OCCASIONAL APPEARANCES

The Committee recommended that the following be allowed to proceed under the Admissions Committee's Regulation 10 concerning "Occasional Appearances in Ontario of Lawyers from other Provinces" and that upon giving the necessary undertakings he be called to the Bar and admitted as a solicitor:

Gabriel Lapointe Province of Quebec

*Approved*

### ADMISSION OF STUDENTS–AT–LAW

#### Bar Admission Course

A further total of 76 candidates having complied with the

relevant Regulations, paid the required admission fee of $101 and filed the necessary papers, applied for admission to the Law Society as students-at-law as of 1st September, 1976. Seventy-four applied under Regulation 26 (5) and two solicitors from the United Kingdom applied under Regulation 5.

*Approved*

**DIRECT TRANSFER**

The Committee considered and approved an application for direct transfer to practise in Ontario from a member of the British Columbia Bar who sought permission to proceed under Regulation 4 (1) and to attend the teaching portion of the Bar Admission Course in lieu of writing the examinations required by the Regulation.

**DIRECT TRANSFER FROM QUEBEC**

Three applications for direct transfer to practise in Ontario from members of the Quebec Bar who sought permission to proceed under Regulation 4 (2) were considered and approved by the Committee.

**OCCASIONAL APPEARANCE**

*Gabriel Lapointe Q.C.* of the Province of Quebec, applied to proceed under Section 10 of the Regulation "Occasional Appearances in Ontario" of lawyers from other Provinces in the case of *The Queen v. David Belhumeur and Jean P. Dionne.* Mr. Lapointe, having complied with the requirements of Section 10 of the Regulations, asks to receive his call to the Bar of Ontario at the November Convocation.

*Approved*

*Bruno J. Pateras Q.C.* is a member of the Bar of the Province of Quebec and practises in Montreal. In September, 1976 he was called to the Bar in Ontario pursuant to the Rule permitting an Occasional Appearance in the case of *The Queen v. Louis de Gonzaque Giguere* in the "Sky Shops affair". The Committee is asked to consider extending this Special Call to the Bar in Ontario to permit Mr. Pateras to represent Senator

Giguere in the proceedings respecting two additional charges.

*Approved*

*Marcel Piché, O.C., Q.C.* of the Bar of the Province of Quebec, was called to the Bar in Ontario in April, 1975 pursuant to the Rule permitting Occasional Appearance. He now seeks to be permitted to appear in another case, *The Queen v. Canadian Publicity Agency* representing Jean P. Dionne, Director of the Agency.

*Refused*

It was moved in Convocation, seconded and *carried* that Mr. *Marcel Piché* be permitted the further occasional appearance he seeks.

**SURVEY OF THE MEMBERS IN THE PROFESSION**

A letter to the Chairman from the Finance Administrator showed the increase in the number of members of the Society at five-year intervals from 1935 to 1975, as well as the present numbers in the profession, and that approximately one thousand student members were serving under articles.

There are substantially more applicants for places in Law Schools than can be accommodated so that the numbers entering the profession, assuming Law School accommodation in the Province remains stable, can be expected to continue at the present level for the foreseeable future. The Committee considered it to be of importance to obtain information respecting the absorption into practice of new members of the Bar and their distribution throughout the Province, whether it is becoming increasingly difficult for new members of the Bar to find employment with existing firms; whether an increasing number of graduates are beginning their practice alone; and how closely related the answers to these two questions are.

The Committee sought authority to explore the cost of obtaining such information through distribution of a questionnaire to the profession.

**THE REPORT AS AMENDED WAS ADOPTED**

. . . . . .

**CALL TO THE BAR**

The following candidates were presented to the Treasurer and Convocation and were called to the Bar, and the degree of Barrister-at-law was conferred upon each of them by the Treasurer:

David Joseph Stearn
Gabriel Lapointe

. . . . . .

## FINANCE COMMITTEE–Mr. Shepherd

Mr. A.E. Shepherd, Chairman, presented the Report of the Finance Committee of its meeting on Thursday, 11th November, 1976.

The following members were present: Messrs. Pallett (Vice-Chairman), Brulé, Farquharson, Ground, Henderson, Ogilvie, Pepper.

**ROLLS AND RECORDS**

*Appointment to the Bench*

The following members have been honoured by their appointments to judicial office and their membership in the Society will be placed in abeyance upon their assuming office:

| | |
|---|---|
| Donald Francis Morrison<br>Scarborough | Called – 16 September 1960<br>Appointed Provincial Judge, Family Division, County of York - 29 September 1976 |
| Saul Nosanchuk<br>Windsor | Called – 25 June 1959<br>Appointed Provincial Judge, Criminal Division, County of Essex – 29 September 1976 |

*Noted*

*Deaths*

The following members have died:

| | |
|---|---|
| Austin Richard Michael O'Connor, Q.C.<br>Ottawa<br>(Life Member) | Called – 21 October 1920<br>Deceased – 10 October 1976 |

| | |
|---|---|
| Harry Allen Newman, Q.C.<br>Toronto<br>(Life Member) | Called – 3 August 1911<br>Deceased – 8 October 1976 |
| John Robert Kimber, Q.C.<br>Toronto | Called – 15 June 1944<br>Deceased – 10 October 1976 |
| Hollis Edward Beckett, Q.C.<br>Toronto<br>(Life Member) | Called – 20 October 1921<br>Deceased – 22 October 1976 |
| Ernest Vincent Matura<br>Toronto | Called – 16 September 1960<br>Deceased – 6 November 1976 |

*Noted*

*Disbarments*

The following former members were disbarred and struck off the rolls, and their names have been removed from the rolls and records of the Society:

| | |
|---|---|
| Frank Frederick Shunock<br>Sault Ste. Marie | Called – 26 March 1965<br>Disbarred – Convocation<br>15 October 1976 |
| Bruce Murray White<br>Madoc | Called – 24 June 1954<br>Disbarred – Convocation<br>15 October 1976 |

*Noted*

**MEMBERSHIP UNDER RULE 50 – RETIRED MEMBERS**

At its September meeting, the Committee considered the application of *Allen Edward Ludlow Wetmore* to continue his membership in the Society at a reduced annual fee of $25. Mr. Wetmore had indicated that he had retired but that he was completing some unfinished business. The Committee deferred its decision and instructed the Secretary to inquire of Mr. Wetmore as to the nature of the unfinished business. Mr. Wetmore advised that the unfinished work to which he referred extended only to the collection of his outstanding accounts for fees.

*Frederick Roland Charles* of Ottawa, who is sixty-five years of age or over, and who is fully retired from the practice of law and other employment, requested consideration of his application to continue his membership in the Society at a reduced annual fee of $25.

*Approved*

**CHANGE OF NAME**

*Yolanda Janne Nowak,* a student member, requested that her name be changed on the Rolls of the Society to Yolanda Janne *Smith* her married name.

*Marie Catherine Borden,* a student member, requested that her name be changed on the Rolls of the Society to Marie Catherine *Rounding Atkey,* thus including her maiden name and her new married name.

*Approved*

**ARCHITECT'S ACCOUNT**

The following account from Mr. Arthur Heeney was before the Committee for approval:

**Iron Fence – Project No. 64-03-74**

| | |
|---|---|
| November 8th, 1976 – Professional Services covering work completed and payments certified to dated on the above project | $8,478.51 |

*Approved*

**REMEMBRANCE DAY 1976**

The Committee recommended that an expression of appreciation be extended to Mr. G.E. Beament, Q.C. in respect of his address at the Benchers' Luncheon on Remembrance Day, November 11th, 1976.

**CANADIAN BAR ASSOCIATION–**
**MID-WINTER MEETING**

The Mid-Winter Meeting will take place in Toronto on February 3rd, 4th and 5th, 1977. The format will be different from that in previous years and the Law Society will not be asked to provide a luncheon. However, the Society has been requested to provide a reception prior to the dinner on February 5th, 1977.

*Approved*

**THE REPORT WAS ADOPTED**

. . . . . .

## DISCIPLINE COMMITTEE–Mr. Lochead

### GENERAL REPORT

Mr. G.H. Lochead, Chairman, presented the General Report of the Policy Section of the Discipline Committee of its meeting on Thursday, 11th November, 1976.

The following members were present: Messrs. Lochead (Chairman), Bynoe (Vice-Chairman), Carnwath (Vice-Chairman), Cass, Cooper, Furlong, Humphrey, Kellock and Mrs. Sutherland.

1. The Committee had before it a complaint by a member of the public against four members of the profession. After due consideration it was concluded that the investigation that had been carried on by the Secretariat produced no evidence to support complaints of professional misconduct against any of the lawyers. The Secretary was instructed to so advise the complainant.

2. The Society's auditing staff, under the direction of Mr. Anderson, spent a week conducting a blitz in various parts of the Province. A summary of the results was considered by the Committee. The matter was then referred to the Chairman to prepare a Notice to the Profession dealing with blitzes, for consideration by Convocation.

**THE REPORT WAS ADOPTED**

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### COMPENSATION FUND SUMMARY

Mr. J.D. Carnwath, Vice-Chairman, presented the Summary of the Compensation Fund for the period ended 31st October, 1976.

## COMPENSATION FUND

**For The Period 1st July, 1976 to 31st October, 1976**
**(4 months)**

| | |
|---|---|
| TOTAL RECEIPTS | $ 46,983.10 |
| TOTAL DISBURSEMENTS | $ 78,283.47 |
| EXCESS OF DISBURSEMENTS OVER RECEIPTS | ( $ 31,300.37) |
| BALANCE OF FUND at beginning of period | $1,486,468.30 |
| BALANCE OF FUND at end of period | $1,455,167.93 |

## RESUME OF GROSS CLAIMS OUTSTANDING

| | |
|---|---|
| CLAIMS RECEIVED and in the course of being processed as of 31st October 1976 | $3,168,946.33 |
| TOTAL PAID to 31st October 1976 from the commencement of the Fund on account of 955 claims of 102 former solicitors | $3,606,323.87 |

**THE SUMMARY WAS RECEIVED**

. . . . . .

## LEGAL AID COMMITTEE—Mr. Bowlby

Mr. G.E. Wallace presented the Report of the Legal Aid Committee of its meeting on Wednesday, 10th November, 1976.

The following members were present: John D. Bowlby, Chairman, and Messrs. Carter, Fairbairn, Ferrier, Finlayson, Mrs. Fleming, Messrs. Gilchrist, Hamer, Harris, Mrs. Jarmain, Messrs. Lamb, Lewis, Linden, Messrs. Ogilvie, Shaffer, Mrs. Smyth, Miss Vaughan, Mr. Wallace.

In attendance by special invitation were Mrs. Gretta Grant, Area Director, Middlesex, Oxford and Perth Counties, and David Jones, Solicitor, Vice-Chairman, Law Society of Victoria, Australia.

A.C. Whealy, Solicitor, Toronto, was also in attendance as an observer from the Criminal Lawyers Association.

## REPORT OF THE DEPUTY DIRECTOR

*Finance*

The following table compares the actual net expenditure of the Legal Aid Fund for the first six months of this fiscal year with the budget as originally submitted by the Plan and with the budget now imposed by the Province.

| | *Actual Cost to Sept. 30, 1976* | *Legal Aid Budget* | *Under (Over) Legal Aid Budget* | *Province Budget* | *Under (Over) Province Budget* |
|---|---|---|---|---|---|
| **Fees and Disbursements** | $ ,000 | $ ,000 | $ ,000 | $ ,000 | $ ,000 |
| Criminal | 6,674.2 | 6,994.8 | 320.6 under | 4,679.3 | (1,994.0) over |
| Civil | 3,980.7 | 3,628.8 | (351.9) over | 2,782.5 | (1,198.2) over |
| Advice | 82.2 | 139.3 | 57.1 under | 86.0 | 3.8 under |
| Duty Counsel | 1,126.9 | 1,752.6 | 625.7 under | 1,375.0 | 248.1 under |
| | 11,864.0 | 12,515.5 | 651.5 under | 8,922.8 | (2,941.2) over |
| Community Legal Services Groups | 425.3 | 142.1 | (283.2) over | 475.0 | 49.7 under |
| Student Legal Aid Societies | 102.0 | 102.0 | – | 102.0 | – |
| Area Office Costs | 1,308.2 | 1,364.9 | 56.7 under | 1,350.9 | 42.7 under |
| Administrative Expenses | 882.0 | 1,001.0 | 119.0 under | 930.7 | 48.7 under |
| | 14,581.5 | 15,125.5 | 554.0 under | 11,781.4 | (2,800.1) over |
| Less: | | | | | |
| Client Contributions and Costs | 996.6 | 1,000.1 | 3.5 under | 1,000.0 | 3.4 under |
| Miscellaneous Income | 60.1 | 31.3 | (28.8) over | 31.5 | (28.6) over |
| Total Net Expenditure | 13,524.8 | 14,094.1 | 593.3 under | 10,749.9 | (2,774.9) over |

It is estimated that a further $5,409,000 will be required from the Provincial Treasury to maintain payments from the Fund to the end of this current fiscal year.

*Statistics*

For the first six months of this fiscal year, the number of persons seeking assistance from the Plan shows little change from the same six month period last year. However, there is a fairly significant increase in refusals of applications with the result that fewer Legal Aid certificates are being issued.

| | *6 Month Period Ended* | | *% Change from* |
|---|---|---|---|
| | *Sept. 30, 1976* | *Sept. 30, 1975* | *Last Year* |
| Informal Applications | 48,199 | 48.199 | + 1.1 |
| Applications for Certificates | 51,120 | 53,796 | – 2.5 |
| Refusals | 16,264 | 14,185 | + 14.7 |
| Certificates issued | 38,743 | 42,564 | – 9.0 |
| Persons assisted by Duty Counsel | 78,088 | 75,370 | + 3.6 |

## REPORT OF THE LEGAL ACCOUNTS OFFICER

*Reviews*

| | *October 1976* | *7 months to Oct. 1/76* | *7 months to Oct. 1/75* |
|---|---|---|---|
| Reviews on hand at beginning of | 137 | | |
| Reviews received in | 133 | 871 | 464 |
| | 270 | | |
| Settlements reviewed in | 122 | 776 | 381 |
| Settlements awaiting review at end of | 135 | | |
| Settlements awaiting further information at end of | 13 | | |
| | 270 | | |

*Appeals*

| | *August* | *September* | *October* |
|---|---|---|---|
| Appeals to Taxing Master received during October | | | – |
| Appeals heard by Taxing Master | – | 1 | – |
| Appeals pending at the end of the month | 4 | 6 | 6 |
| Appeals abandoned | – | – | – |

*Activity*

| | *1976/77 Fiscal Year* | | *1975/76 Fiscal Year* | |
|---|---|---|---|---|
| | *Month of October* | *7 Months to Oct. 30* | *Month of October* | *7 Months to Oct. 30* |
| Accounts on hand at beginning | 4574 | 5087 | 6072 | 8839 |
| Accounts received | 5197 | 36676 | 4756 | 34601 |
| Total accounts to be processed | 9971 | 41763 | 10828 | 43440 |
| Less: Files Cancelled | 47 | 251 | 32 | 220 |
| Accounts Processed | 5599 | 38087 | 6263 | 38687 |
| Balance | 4425 | 4425 | 4533 | 4533 |

The above figures do not reflect accounts for Interim Disbursements and Supplementary Payments.

**MEETING WITH JUSTICE CRITICS – OPPOSITION PARTIES – MONDAY, NOVEMBER 1, 1976**

John D. Bowlby, Chairman, and Professor A.M. Linden, Vice-Chairman of the Legal Aid Committee, together with senior members of the administrative staff, on Monday, November 1, 1976, met with the following M.P.P.s to discuss the Ontario Legal Aid Plan:

Vernon Singer, Liberal
Alfred Stong, Liberal
Edward Good, Liberal
Bob McKessock, Liberal
Pat Lawlor, N.D.P.

Gill Sandeman, N.D.P.
Mike Breaugh, N.D.P.

The Chairman discussed with the members of the Opposition Parties, among other items, the following topics:

Recent developments under the Plan;
Funding independent legal service groups;
Growth of the Plan;
Funding sources;
Distribution of the Legal Aid dollar;
Budget.

The members expressed a desire meet with the administrators of the Plan on a semi-annual basis.

**DELIVERY OF LEGAL AID SERVICES TO PERSONS IN REMOTE NORTHERN COMMUNITIES**

The Attorney General wrote to the Chairman on June 20th, 1976, enclosing a proposal prepared by the Canadian Civil Liberties Association for legal assistance to members of a number of native communities in northwestern Ontario.

The Attorney General also advised that he was interested in doing as much as possible with respect to Part II of the Osler Task Force Report. The Attorney General wrote the Chairman on August 10th requesting a costing of the Canadian Civil Liberties Association's report.

On August 26th, 1976, George E. Wallace, Chairman of the Northern Affairs Sub-Committee, J.K. Doner, David E. Lewis and D.J. McCourt, attended a meeting of the Ontario Native Advisory Committee in Kenora.

On September 1st, 1976, the Sub-Committee held a meeting to consider among other things, the Attorney General's correspondence, the paper prepared by the Canadian Civil Liberties Association, the conclusions reached at the Kenora meeting and Part II of the Osler Report. Mr. Wallace presented a report to the Committee at its September meeting. The report was received by the Committee.

In October a representative of the Ministry of the Attorney General received permission to have copies of the said report distributed as a "working paper" to a meeting of native

Canadians in Thunder Bay to give those in attendance the opportunity to comment and make recommendations on the Sub-Committee's report.

The Committee noted that native Canadians have been invited to make recommendations on the said report but as yet have not done so. The Committee was of the opinion that to approve the report was a practical course of action to initiate a pilot project to deliver legal aid services to native Canadians. The project would, no doubt of necessity, vary its form of delivery as experience dictated.

Therefore, the Committee recommended that the report be adopted and that a copy be forwarded to the Attorney General.

The Sub-Committee recommended that the following be implemented as a pilot project:

1. That the Legal Aid Plan should not undertake to establish any course for native-para-legals or citizen advocates at this time.

2. That the Plan should authorize employment for two native persons for the reserves in the Thunder Bay area – two for the Kenora area reserves and one for the Fort Francis area reserves, all as employees of the Legal Aid Plan.

3. That a legally trained person be employed to supervise and be responsible for the training of those five native persons acting in co-operation with the Area Director of the areas mentioned.

4. That this program be extended to other reserves and other areas as experience dictates the need and value of such extension and that suitable training sessions be held as considered advisable.

5. That the Plan provide personnel and materials on request to assist the Federation of Friendship Centres to present sessions of instruction to its court workers.

6. That the assessment by Social and Family Services for native people living on reserves be dispensed with.

7. That the requirement of sworn applications for Legal Aid for native persons living on Reserves by dispensed with and be replaced by a questionnaire as to financial status enabling the area director to determine eligibility.

8. That the provision of travelling expenses and travel warrants to accused persons and their witnesses be properly authorized as within the Area Director's discretion.

9. That duty counsel operating in remote areas be authorized to proceed with all matters summary or indictable where such counsel is of the opinion that he is properly prepared to do so and the same in the interest of the client.

10. That the daily rate for duty counsel in travelling court circuits that involve two days or more be fixed at $300 and that all work undertaken by duty counsel be done in that capacity.

11. That the Plan be authorized to enter into an arrangement providing a guaranteed income to a solicitor in a northern community which is not already serviced by a lawyer where the Committee considers the same to be required. The solicitor to be able to accept certificates for legally aided matters.

**COMMUNITY AND LEGAL AID SERVICES PROGRAMME**

The Committee received correspondence from Peter B. Bell, Assistant Secretary of the Law Society, setting out the concerns of the Unauthorized Practice Committee with respect to the giving of legal advice by students involved in Student Legal Aid programmes.

The Committee requested John B. Allen, Special Assistant to the Provincial Director, to meet with the appropriate representatives of the Student Legal Aid Plans and discuss the problem and report back to the Committee.

**LEGAL AID IN FAMILY COURT**

A Sub-Committee consisting of Lee K. Ferrier, R.J. Carter,

and W.R. Donkin, was appointed to meet with representatives of the Family Court in an attempt to resolve issues raised in an article published by The Globe and Mail headed, "Legal Aid Spends As Little As 30 Seconds With Juveniles Before Trial – Legal Aid Need In Family Court".

The Committee reviewed a report of the Sub-Committee and recommended that the report be adopted and that the recommendations in paragraphs 1 and 4 be implemented immediately and that the recommendations contained in paragraphs 2, 3, 5 and 6 be reviewed by the said Sub-Committee and reported on at the appropriate time.

The Sub-Committee recommended immediate implementation of the following:

1. THAT the present practice of duty counsel in appearing not only on the first appearance but subsequent appearances where it appears that the needs of the juvenile can be met by a duty counsel be confirmed and permitted by an amendment to the Regulation.

4. THAT an experiment be conducted at the court at 311 Jarvis Street by posting duty counsel to the domestic sittings conducted by two judges, for a period of three months, and that during that period the experiment be carefully monitored, both by the court and by the Legal Aid office, with a view to establishing whether such a system should be instituted in this court for all domestic sittings.

**AREA COMMITTEES**

Section 4(1) of The Legal Aid Act provides that the Law Society may appoint a Legal Aid Committee for an area.

The Committee recommended the following be appointed as members of the Area Committees in:

**Hastings and Prince Edward**

James F. O'Brien, Solicitor, Belleville

**Frontenac**

Paul Douglas Trotter, Law Student, Kingston

**RESIGNATIONS**

**Hastings and Prince Edward**

B.W. Hurley, Solicitor, Belleville

**THE REPORT WAS ADOPTED**

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**SOLICITOR-CLIENT COMMUNICATIONS – MOTION OF MR. PAUL COPELAND**

At the Society's Annual Meeting on Friday, 12th November, 1976, Mr. Paul Copeland, a solicitor practising in Toronto, sought to make the following motion:

> "RESOLVED that the Law Society of Upper Canada condemn the actions of the Canadian Penitentiary Service in photo-copying solicitor-client mail and in any way advising departmental counsel of any communication between solicitor and client."

The Treasurer placed the motion and copies of correspondence which Mr. Copeland submitted to support the motion before Convocation for its consideration.

It was moved, seconded and *carried* that the motion respecting solicitor-client communications be referred to the Special Committee on Prisoners' Rights for its consideration.

. . . . . .

**PROFESSIONAL CONDUCT COMMITTEE–Mr. Cooper**

Mr. B.H. Kellock, Vice-Chairman, presented the Report of the Professional Conduct Committee of its meeting on Thursday, 11th November, 1976.

The following members were present: Messrs. Cooper (Chairman), Bowlby, Brulé, Carnwath, Chappell, Henderson, Kellock, Lochead, Strauss, Mrs. Sutherland and Mr. Willoughby.

**1. Integration of the Canadian Bar Association's Code of Professional Conduct and the Society's Rulings of Professional Conduct**

The Committee completed its detailed consideration of the report of its Sub-Committee that was charged with the responsibility of integrating the Code and the Society's Rulings. It was anticipated that the Committee would be in a position to make its report in this connection to Convocation in the very near future.

**2.** A lawyer asked whether it would be proper to print along the bottom of his firm's invoices the phrase "1½% monthly payable on past due accounts". The Committee was aware that in June of 1965 the Committee as it was then composed had expressed the opinion that it was not in keeping with the dignity of the profession for a lawyer to put at the bottom of his standard fee billing a notation of this nature. Notwithstanding this prior opinion the Committee was of the view that it is not ethically improper to indicate that interest in accordance with Sec. 35 of The Solicitors Act will be charged.

**3.** A lawyer requested the Committee to consider whether it would be objectionable to the Society if he were to hire the services of a limited company to act as a Wills Co-ordinator. He indicated the company would provide the personnel necessary to review the Wills and contact the clients. The company would provide the staff in his office and he would take personal responsibility for their accounts.

The Committee was unanimous in its view that, firstly, it was not proper for a lawyer to write indiscriminately to authors of Wills in his office unless such authors where present clients and, secondly, that it was not proper for a solicitor to make it possible for an unqualified person to practice law.

**4.** A lawyer requested the Committee's approval with respect to noting on his firm's letterhead that they had offices in various foreign cities.

The Committee was of the view that it was not proper to include references to offices in foreign cities or associated offices on the letterhead and in this regard reference should be made to Ruling 10. It was noted in this case that the persons in the foreign or associated offices were not members of the firm.

**THE REPORT WAS ADOPTED**

. . . . . .

**CONVOCATION ADJOURNED FOR LUNCHEON AT 12:45 P.M.**

. . . . . .

The Treasurer and Benchers had as their guests for luncheon The Honourable Mr. Justice John Holland and The Honourable Mr. Justice Sydney L. Robins of the Supreme Court of Ontario and Mr. B.V. Elliot, Q.C.

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**CONVOCATION RESUMED AT 2:15 P.M.**

. . . . . .

**PRESENT:**

The Treasurer and Messrs. Brulé, Cartwright, Cass, Fennell, Furlong, R.J.S. Gray, Ground, Henderson, Humphrey, Kellock, Montgomery, Ogilvie, Pepper, Rogers, Salhany, Seagram, Mesdames Sutherland and Tait, Messrs. Tobias, Wallace and White.

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## LIBRARIES AND REPORTING COMMITTEE—Mr. Seagram

Mr. N. MacL. Rogers, Vice-Chairman, presented the Report of the Libraries and Reporting Committee of its meeting on Thursday, 11th November, 1976.

The following members were present: Messrs. Rogers (Vice-Chairman), Chappell, Farquharson, Salhany, Strauss, Mrs. Tait and Mr. Willoughby, and Miss A.R. McCormick.

## GREAT LIBRARY

### GIFTS AND DONATIONS

The following donations to the Great Library were received:

| | |
|---|---|
| John D. Honsberger, Q.C., Toronto | 2 volumes, consisting of U.S. Laws, statutes etc. *Bankruptcy Act and Rules with Explanatory Comment on Important Amendments.* 1976 ed., by Asa S. Herzog and others. [50th annual meeting of the National Conference of Bankruptcy Judges, Washington, D.C., October 6 – October 9, 1976] New York, Matthew Bender, 1976. |
| The Public Trustee, Ministry of the Attorney General, Toronto | 12 volumes, consisting of 10 volumes of the Statutes of Ontario, 1970 and 2 Volumes of The Ontario Statute Citator, 1966 – 1971. |

**REVISED REPORTS**

The Committee recommended that the offer of The Carswell Company Limited to purchase one of the Great Library's extra sets of the Revised Reports be approved, subject to a one-week delay before the purchase is finalized.

**CENTRAL ADMINISTRATIVE PROGRAMME**

The Committee considered a report from the Chief Librarian showing for each county and district the detailed figures for salaries, binding and texts and the balance of the amount for books from the 1975 grant application, and approved a total request to The Law Foundation of Ontario in the amount of $379,807.59 which is made up as follows:

| | | |
|---|---|---|
| Expenditures over 1975 portion of grant | $ 43,208.59 | |
| Balance of original request made in 1975 | 151,424.00 | |
| To the purchase of new texts, 1976/77 (average $2,000.00) | 96,000.00 | |
| Salaries, adjusted to approximate individual needs | 89,175.00 | $379,807.59 |

**DISTRICT OF MANITOULIN – LAW LIBRARY**

The Committee recommended approval of a request from Jerome Lloyd Greenspoon of Gore Bay to have his application for a grant to establish a Law Library forwarded by the Law Society to The Law Foundation of Ontario.

The Committee also recommended that the Chief Librarian communicate with Mr. Greenspoon in order to

ascertain the basic requirements and the cost of acquisition of books for the Law Library of the District of Manitoulin which, if established, would be administered through the Central Administrative Programme.

It was moved in Convocation, seconded and *carried* that the above item be referred back to the Committee pending disposition of the question whether the Court will continue to sit in Gore Bay.

**THE REPORT AS AMENDED WAS ADOPTED**

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**APPOINTMENT TO STANDING COMMITTEE**

It was moved, seconded and *carried* that Mr. *G.E. Wallace* be appointed to the Libraries and Reporting Committee.

. . . . . .

## UNAUTHORIZED PRACTICE COMMITTEE–Mr. White

Mr. J.G.M. White, Chairman, presented the Report of the Unauthorized Practice Committee of its meeting on Thursday, 11th November, 1976.

The following members were present: Messrs. White (Chairman), Cass, Furlong, Mrs. Legge and Mr. Strauss.

1. The Committee received a letter from an individual requesting that he be permitted to advertise his divorce kit agency and his incorporation of companies agency in the Toronto Star. The Committee recommended that the Secretary send a letter stating that the Law Society is not prepared to authorize the advertisements referred to.

2. The Committee considered a letter from a solicitor complaining about a former notary public who appeared to be engaged in activities which constitute unauthorized practice. The Secretary was instructed to make a further investigation and if there is sufficient evidence of a breach of Section 50 of The Law Society Act to write to the Attorney General advising him that there appears to be a prima facie case of fraud.

3. The Committee considered a letter from a solicitor complaining about a conveyancer in Arthur, who appeared to be engaged in activities which might be unauthorized practice. The Secretary was instructed to send the solicitor a memorandum of law relating to unauthorized practice and suggesting that if the solicitor has further evidence of unauthorized practice by the conveyancer, he should forward it to the Society.

4. The Committee considered a letter from a public accountant requesting advice as to whether he would be in breach of Section 50 of The Law Society Act if he drafted the Succession Duty Schedules A, B, and C which are exhibits to the Affidavit of Value and Relationship which is filed with the Ontario Succession Duty Department. The Secretary was instructed to write to the public accountant indicating that he should consult his own solicitor for legal advice concerning any possible breaches of Section 50 of The Law Society Act.

5. The Committee considered a letter from a solicitor complaining about the conveyancing activities being carried on by a notary public. The Committee recommended that counsel be retained to investigate and if sufficient evidence of a breach of Section 50 of The Law Society Act is obtained, to commence a prosecution. In addition the Attorney General should be advised of the notary's conveyancing activities.

6. The Committee considered a letter from a solicitor in St. Catharines complaining about a consultant who appeared to be engaged in activities which might constitute unauthorized practice. The Committee instructed the Secretary to send a copy of the complaint (if the solicitor who complained gives his permission) to the two solicitors referred to and ask them for an explanation of the alleged unauthorized practice.

7. The Committee considered a brochure which had been sent by a solicitor who complained that it might indicate unauthorized practice. The brochure appeared to the Committee to advertise an agency which was primarily investigatory and that the agency did not give legal advice. The Committee instructed the Secretary to write to the solicitor indicating that the brochure of the agency does not appear to contain sufficient evidence of unauthorized practice but if the solicitor has further evidence of a breach of Section 50 of The Law Society Act, he should forward it to the Society for investigation.

**THE REPORT WAS ADOPTED**

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**CANADIAN LAW INFORMATION COUNCIL (CLIC)**

Mr. G.F. Henderson advised Convocation of the motion passed by The Federation of Law Societies of Canada respecting the proposed levy of $4.00 per member per annum to support the work of CLIC.

It was moved in Convocation and seconded,

1. That in principle the work of the governors of the CLIC project be commended; and
2. That the question of voting the requested funds be deferred until the application to The Law Foundation of Ontario has been disposed of.

Mr. Henderson retired during the discussion and did not vote.

Each part of the motion was put to a separate vote. Both parts were *carried*.

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**SPECIAL COMMITTEE ON TARIFFS**

A Report of the Special Committee on Tariffs was on the agenda. Convocation decided to defer consideration of it to a later date to afford members of Convocation an opportunity to study it.

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**CONVOCATION ROSE AT 3:45 P.M.**

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Read in Convocation and confirmed 21st January, 1977.

W. GIBSON GRAY
Treasurer

# MINUTES OF SPECIAL CONVOCATION
## (ABRIDGED)

Thursday, 2nd December, 1976
10:00 a.m.

**PRESENT:**

The Treasurer (Mr. W. Gibson Gray) and Messrs. Bowlby, Bynoe, Carnwath, Cartwright, Cass, Chappell, Farquharson, Fennell, Finlayson, Furlong, R.J.S. Gray, Ground, Humphrey, Mrs. Legge, Messrs. Lochead, Montgomery, Ogilvie, Pallett, Pepper, Rogers, Seagram, Shibley, Strauss, Mesdames Sutherland and Tait, Messrs. Thom, Tobias and Wallace.

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**ELECTION OF CHAIRMAN OF STANDING COMMITTEE**

The Treasurer informed Convocation that Mr. A.E. Shepherd had asked to be relieved of the chairmanship of the Finance Committee. Convocation adjourned to permit a meeting of the Finance Committee to take place for the purpose of electing a Chairman.

Convocation resumed following the meeting of the Finance Committee and received the Committee's Report as follows:

FINANCE COMMITTEE: Chairman – J.C. Pallett

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**APPOINTMENT TO SPECIAL COMMITTEE**

The Treasurer advised Convocation that on the recommendation of Mr. Stuart Thom, the Chairman of the Special Committee on the Professional Organizations Project of the Ontario Law Reform Commission, he had appointed Mr. *Noel Ogilvie* as a lay Bencher member of the Special Committee.

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**REPRESENTATION ON LEGAL EDUCATION COUNCIL**

The Treasurer reported to Convocation that Mr. *A.E. Shepherd* had tendered his resignation as one of the Society's representatives on the Legal Education Council.

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## DISCIPLINE COMMITTEE—Mr. Lochead

### Re: ERIC SAMUEL COLBERT, Sarnia

Mr. G.H. Lochead, Chairman, placed the matter before Convocation.

The reporter was sworn.

The solicitor was not present nor was he represented by counsel. Mr. Charles Mark represented the Society.

Mr. Lochead referred to Section 33(13) of The Law Society Act respecting service of documents and recited a chronology of events touching the service of the documents involved.

Counsel for the Society made submissions with respect to the effectiveness of service by registered mail notwithstanding it is known that the solicitor did not in fact receive notice. He reviewed the relevant cases and submitted that to protect the public it is necessary to give effect to the provision for service by registered mail although it is known that in fact the solicitor is away and his whereabouts are unknown.

(Reference to *Denning's Judgment,* the *Lumberman's case* and the *Brodsky case* all of which were referred to in the *French case* in the Supreme Court of Canada).

Counsel and the reporter retired.

It was moved, seconded and *carried* that Convocation proceed with the matter.

Counsel and the reporter returned.

Mr. Lochead presented four Affidavits of Service dated 8th November, 1976, sworn by John Bresnahan, to the effect that a duplicate original of the Decision, a Notice of Decision, a Summons to Solicitor and a covering letter were sent by

registered mail on 5th November, 1976, to the solicitor at his last known office address and at his last known residence address; in care of his former secretary, Sharon Ann Nagy; and in care of J.S. McEachran, Q.C., who at one time was purported to be handling the solicitor's files. Mr. McEachran accepted delivery and advised that he is holding the envelope for the solicitor. The other three items were returned to the Law Society by the Post Office.

It was moved, seconded and *carried* that the reading of the Decision of the Discipline Committee, dated 24th October, 1976, be dispensed with.

The Decision of the Discipline Committee found that the solicitor was guilty of professional misconduct in that he had misappropriated $19,000 belonging to clients and failed to keep sufficient funds on deposit in his trust account to meet his trust obligations.

It was moved and seconded that the Decision of the Discipline Committee be accepted.

Counsel and the reporter withdrew.

The motion that the Decision be accepted was *carried.*

It was moved and seconded that Convocation by Order disbar the solicitor and that his name be struck off the Roll of Solicitors and that his membership in the Society be cancelled.

The solicitor was called again but was not in attendance.

The motion to disbar was *carried.*

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**Re: ANDREW JOHN MARTYN, Toronto**

Mr. G.H. Lochead, Chairman, placed the matter before Convocation.

The reporter was sworn.

The solicitor attended with his counsel, Mr. George J. Elaschuk, Q.C. Mr. S.E. Traviss represented the Society.

Counsel agreed that reading the Decision of the Discipline Committee was not necessary.

It was moved, seconded and *carried* that the reading of the

Decision of the Discipline Committee, dated 11th November, 1976, be dispensed with.

The Decision of the Discipline Committee found that the solicitor was guilty of professional misconduct in that he had borrowed from a client without observing the requirements of Ruling 14 of the Rules of Professional Conduct and failed to maintain books and records as required by the Regulation under The Law Society Act.

It was moved and seconded that the Decision of the Discipline Committee be accepted.

The solicitor made no dispute with respect to the Decision and no submissions were made with respect to its acceptance.

The solicitor, counsel and the reporter retired.

The motion that the Decision be accepted was *carried*.

It was moved and seconded that by Order the solicitor be reprimanded in Convocation for his misconduct provided he undertake to Convocation to supply at his own expense monthly statements certified by a chartered accountant of the Society's choice for a period of twelve months as to his compliance with the Society's Rules and that he undertake to pay the costs of the Society's investigation in the amount of $327.

It was moved and seconded that Convocation by Order suspend all the rights and privileges of the solicitor as a member of the Society for a period of six months.

The solicitor, counsel and the reporter returned. The solicitor and counsel were informed that the Decision had been accepted and of the motions respecting penalty before Convocation. Counsel for the solicitor was prepared to proceed and the solicitor was prepared to give the undertaking required.

Convocation was advised of previous disciplinary actions against the solicitor.

With the consent of the seconder, the mover *withdrew* the motion for a six-month suspension of the solicitor's rights.

The solicitor, counsel and the reporter retired.

The motion that the solicitor be reprimanded provided he give certain undertakings and pay the costs of the Society's investigation was *carried*.

The solicitor, counsel and the reporter returned.

The solicitor was informed of the motion that had been passed. He was advised of his right of appeal and that if he wished to do so, he could waive his right of appeal and request that the penalty of reprimand be carried out forthwith. The solicitor waived his right of appeal. Counsel and the reporter withdrew.

The Treasurer reprimanded the solicitor.

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**Re: WILLIAM ALFRED STEVENS, Sudbury**

Mr. G.H. Lochead, Chairman, placed the matter before Convocation.

The reporter was sworn.

The solicitor attended with his counsel, Mr. D.H. Carruthers, Q.C. Mr. H.L. Morphy represented the Society.

Mrs. Sutherland withdrew, took no part in the discussion and did not vote.

The Treasurer, having been the Chairman of the Discipline Committee dealing with the matter, left the chair.

Mr. Thom took the chair.

Counsel for the solicitor requested that the matter proceed *in camera* for the reasons provided for by The Statutory Powers Procedure Act.

It was moved, seconded and *carried* that the matter proceed *in camera.*

Counsel agreed that the Decision of the Discipline Committee dated 25th June, 1976 need not be read.

It was moved, seconded and *carried* that the reading of the Decision be dispensed with.

The Decision of the Discipline Committee found the solicitor guilty of professional misconduct in that he had taken on the management of over $300,000 belonging to clients and obtained an agreement from them that the arrangement was to be outside the solicitor-client relationship, the clients having

had no independent advice. The solicitor put a substantial part of the money into a company which was in serious financial difficulty and in which he was a major shareholder. The clients later received the solicitor's personal promissory notes but had not been repaid.

The Chairman referred to the Notice of Objection dated 30th November, 1976 filed on behalf of the solicitor.

It was moved and seconded that the Decision of the Discipline Committee be accepted.

Counsel for the solicitor made submissions and filed a letter from Ronald N. Horeck, President of the Sudbury Law Association, dated 30th November, 1976.

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**CONVOCATION ADJOURNED FOR LUNCHEON AT 12:45 P.M.**

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The Treasurer and Benchers had as their guests for luncheon His Honour Judge Leslie M. Ball of the County of York Judiciary and Mr. John D. Honsberger, Q.C., Editor of the Law Society Gazette.

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**CONVOCATION RESUMED AT 2:15 P.M.**

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**PRESENT:**

The Treasurer, and Messrs. Bowlby, Bynoe, Carnwath, Cartwright, Cass, Farquharson, Fennell, Finlayson, Furlong, R.J.S. Gray, Ground, Humphrey, Mrs. Legge, Messrs. Lochead, Montgomery, Ogilvie, Pallett, Pepper, Rogers, Seagram, Shibley, Strauss, Mrs. Tait, Messrs. Thom and Wallace.

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## DISCIPLINE COMMITTEE (Continued)

### RE: WILLIAM ALFRED STEVENS, Sudbury

The Treasurer left the chair and Mr. Thom again took the chair.

Counsel for the solicitor continued his submissions.

Counsel for the Society made submissions. Counsel for the solicitor replied.

The solicitor, counsel and the reporter retired.

The motion that the Decision be accepted was *carried*.

It was moved and seconded that Convocation by Order disbar the solicitor and that his name be struck off the Roll of Solicitors and that his membership in the Society be cancelled.

The solicitor, counsel and the reporter returned, and were advised that the Decision had been accepted and of the motion respecting penalty before Convocation.

Counsel for the solicitor made submissions. Counsel for the Society made submissions.

The solicitor, counsel and the reporter withdrew.

It was moved and seconded that the motion respecting penalty be put. The motion was *lost*.

It was moved, seconded and *carried* that counsel for the solicitor be permitted to make such submissions as he wished to make concerning the matter of penalty including reference to previous cases.

The solicitor, counsel and the reporter returned and were advised of the motion respecting submissions.

Counsel for the solicitor made further submissions. Counsel for the Society made further submissions.

The solicitor, counsel and the reporter withdrew.

The motion for disbarment was *carried*.

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The Treasurer resumed the chair.

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**SPECIAL COMMITTEE ON ERRORS AND OMISSIONS INSURANCE**

The Secretary presented a memorandum setting forth the position with respect to the Society's Errors and Omissions Insurance and requesting that the Treasurer and the Chairman of the Special Committee, or the Treasurer and the Secretary, be authorized to arrange for the Society's members to be held covered from the expiration of the present contract until a new contract can be entered into so that there will be no gap pending Convocation's approval of the Special Committee's report to Convocation in January, 1977.

It was moved, seconded and *carried* that the Treasurer, with the Chairman of the Special Committee on Errors and Omissions Insurance and the Secretary, be authorized to arrange Errors and Omissions Insurance coverage for the Society's members from the expiration of the present contract until a new contract can be entered into.

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**REPORT ON THE ANNUAL MEETING OF THE LAW SOCIETY OF UPPER CANADA**

The Treasurer presented the Report on the Annual Meeting of the Society which was held at Osgoode Hall on Friday, 12th November, 1976, using the recorded Minutes of the Annual Meeting as the basis for his Report.

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**CONVOCATION ROSE AT 5:15 P.M.**

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Read in Convocation and confirmed 21st January, 1977.

W. GIBSON GRAY
Treasurer

THE LAW SOCIETY OF UPPER CANADA

# Minutes of Convocation

Volume 1 Number 8

THE PROPERTY OF
THE LAW SOCIETY

# MINUTES OF CONVOCATION
## (ABRIDGED)

Friday, 21st January, 1977
10:00 a.m.

**PRESENT:**

The Treasurer (Mr. W. Gibson Gray) and Messrs. Bowlby, Brulé, Bynoe, Carnwath, Carter, Carthy, Cass, Chadwick, Chappell, Cooper, Fennell, Finlayson, Furlong, R. J. S. Gray, Ground, Humphrey, Kellock, Mrs. Legge, Messrs. Linden, Lochead, Montgomery, O'Brien, Ogilvie, Pallett, Pepper, Rogers, Salhany, Seagram, Sheard, Strauss, Mesdames Sutherland and Tait, Messrs. Thom, Tobias, Wallace and Williston.

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**MINUTES**

The Minutes of Convocation of 19th November, 1976 and of Special Convocation of 2nd December, 1976 were read and confirmed.

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**MURTON A. SEYMOUR, Q.C.**

The Treasurer regretfully announced the death on 27th December, 1976, of Murton A. Seymour, Q.C., of St. Catharines, a Bencher ex officio of the Society. Mr. Seymour was called to the Bar 16th October, 1919 and became an Honorary Life Member of the Society in 1969. He was elected a Bencher in 1936 and at the three subsequent elections in 1941, 1946 and 1951. It was upon his election in 1951 that he became a Bencher ex officio.

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**APPOINTMENT OF REPRESENTATIVE**

The Treasurer informed Convocation that he had

appointed Mr. *G. D. Finlayson* as one of the Society's representatives on the Legal Education Council to take the place of Mr. A. E. Shepherd. The Society's representatives are as follows: Messrs. R. W. Cass, Finlayson, Pepper, Rogers and the Secretary.

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**MOTIONS –**
**THE HONOURABLE FRANCIS FOX, P.C., Q.C., SOLICITOR GENERAL OF CANADA**

**(a) Honorary Membership**

It was moved, seconded and *carried* that pursuant to Rule 48 (1) under The Law Society Act, The Honourable Francis Fox, Solicitor General of Canada, be made an honorary member of the Society until such time as he may wish to assume active practice within the province.

**(b) Call to the Bar**

It was moved, seconded and *carried* that pursuant to Section 1 of The Barristers Act, R.S.O., 1970, c.39, The Honourable Francis Fox, Solicitor General of Canada, be this day called to the Bar of Ontario, without complying with the rules of the Society as to admission, examination, payment of fees, or otherwise.

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## ADMISSIONS COMMITTEE–Mr. Pepper

Mr. P. B. C. Pepper, Chairman, presented that portion of the Report of the Admissions Committee of its meeting on Thursday, 13th January, 1977, with respect to six applications for Call to the Bar as follows:

**CALL TO THE BAR AND CERTIFICATE OF FITNESS**

**Solicitor General of Canada**

By Resolution of Convocation, 21st January, 1977:

The Honourable Francis Fox

### Bar Admission Course

The following candidate having successfully completed the Sixteenth Bar Admission Course, filed the necessary documents and paid the required fee of $210, applied for Call to the Bar and to be granted a Certificate of Fitness:

Hugh Michael Ryan

### Special

The following candidates having filed the necessary papers, complied with the requirements of the Admissions Committee in each particular case and paid the required fee of $200, were entitled to be called to the Bar and to be granted a Certificate of Fitness:

| | |
|---|---|
| Douglas Gordon Edward | Faculty of Law<br>University of Windsor |
| James William Ingram Lockyer | Faculty of Law<br>University of Windsor |

### Call to the Bar for Occasional Appearance

At its meeting on 13th January, 1977 the Admissions Committee recommended that the following be allowed to proceed under the Admissions Committee's Regulation 10 concerning "Occasional Appearances in Ontario of Lawyers" from other Provinces and that upon giving the necessary undertakings they be called to the Bar and admitted as solicitors:

| | |
|---|---|
| Arthur Godfrey Harvey | Province of British Columbia |
| Joseph R. Nuss | Province of Quebec |

*Approved*

**THAT PORTION OF THE REPORT WAS ADOPTED**

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**CALL TO THE BAR**

The following candidates were presented to the Treasurer

and Convocation and were called to the Bar, and the degree of Barrister-at-law was conferred upon each of them by the Treasurer:

The Honourable Francis Fox
Hugh Michael Ryan
Douglas Gordon Edward
James William Ingram Lockyer
Arthur Godfrey Harvey
Joseph R. Nuss

. . . . . .

**BENCHER EX OFFICIO –**
**THE HONOURABLE FRANCIS FOX**

Upon his call to the Bar, The Honourable Francis Fox, Solicitor General of Canada, became a Bencher ex officio of the Law Society pursuant to Section 12(1)2 of The Law Society Act. The Treasurer welcomed him to the Bench and invited him to take his place among his fellow Benchers.

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## DISCIPLINE COMMITTEE–Mr. Lochead

### Re: ERNEST VALORIE SWAIN, Q.C., Kingston

Mr. G. H. Lochead, Chairman, placed the matter before Convocation.

The reporter was sworn.

The solicitor attended with his counsel, Mr. Eric R. Murray, Q.C. The Society was represented by Mr. S. E. Traviss.

Counsel waived the reading of the Decision of the Discipline Committee dated 21st December, 1976, wherein the solicitor was found guilty of professional misconduct in that he had used approximately $20,000 belonging to one client without providing the expected security and borrowed $20,000 from another client in contravention of Ruling 14 of the Rules of Professional Conduct. Neither client suffered any damage.

It was moved and seconded that the Decision of the

Discipline Committee dated 21st December, 1976, wherein the solicitor was found guilty of professional misconduct be accepted.

Counsel for the solicitor accepted the Decision of the Discipline Committee.

The solicitor, counsel and the reporter withdrew.

The motion that the Decision be accepted was *carried.*

It was moved and seconded that Convocation by Order disbar the solicitor and that his name be struck off the Roll of Solicitors and that his membership in the Society be cancelled.

It was moved and seconded that

(i) Ernest Valorie Swain, Q.C., be reprimanded in Convocation for his professional misconduct, and

(ii) that Ernest Valorie Swain, Q.C., be required to operate his trust account in conjunction with a chartered accountant approved by the Law Society and that such chartered accountant co-sign pursuant to directions from the Law Society, all cheques withdrawing funds from such trust account for a period of twelve (12) months; and

(iii) that Ernest Valorie Swain, Q.C., be required to file quarterly financial statements of his practice in a form and content approved by the Law Society, the first of such statements to be filed three (3) months from this date and to continue for a period not exceeding two (2) years; and

(iv) that Ernest Valorie Swain, Q.C., be required to pay the costs of the Society's investigation.

It was moved but not seconded, that the solicitor's rights and privileges as a member of the Law Society be suspended for a six-month period.

It was moved and seconded that the second motion put and seconded be amended by striking out the words "for a period of twelve (12) months" in item (ii) and placing at the end of item (ii) the words "until Convocation withdraw the requirements". The mover and seconder of the second motion *adopted* this amendment.

The solicitor, counsel and the reporter returned. The solicitor and counsel were advised that the Decision of the Discipline Committee had been accepted by Convocation and of the motions respecting penalty before Convocation. Because the motion for disbarment could impose a more severe penalty than that recommended by the Discipline Committee, counsel for the solicitor was informed that he might have an adjournment if he so desired. Counsel indicated that he was prepared to proceed.

Counsel for the solicitor made submissions. Counsel for the Society made no submissions.

The solicitor, counsel and the reporter withdrew.

Convocation considered the motions respecting penalty and the submissions relating to them.

The first motion that the solicitor be disbarred was *lost*.

The third motion, not being seconded, was not *put*.

The second motion, as amended by motion moved, seconded and adopted, that the solicitor be reprimanded in Convocation, comply with requirements respecting his trust account, until Convocation withdraws the requirements, file quarterly financial statements for a period of two years and pay the costs of the Society's investigation, was *carried*.

The solicitor, counsel and the reporter returned.

The solicitor was informed of Convocation's action. He was advised of his right of appeal and that if he wished to do so, he could waive his right of appeal and request that the penalty of reprimand be carried out forthwith.

The solicitor gave the necessary undertakings with respect to the operation of his trust account, the filing of quarterly financial statements and payment of the Society's costs. The solicitor waived his right of appeal and executed a waiver with respect to such right.

The Treasurer reprimanded the solicitor.

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**CONVOCATION ADJOURNED AT 12:00 NOON**

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The Treasurer and Benchers attended the ceremony before The Honourable W. Z. Estey, Chief Justice of the High Court, when The Honourable Francis Fox, Solicitor General of Canada, Mr. H. M. Ryan, Professor D. G. Edward, Professor J. W. I. Lockyer, Mr. A. Godfrey Harvey and Mr. Joseph R. Nuss, Q.C., took the usual oaths and signed the Rolls as Barristers and Solicitors of this province.

At luncheon the Treasurer and Benchers had as their guests the Solicitor General of Canada, his assistant, Mr. André Lizotte, The Honourable Mr. Justice Horace Krever of The Supreme Court of Ontario, and Mr. Arthur S. Pattillo, Q.C., Chairman of the Ontario Securities Commission. The Honourable R. Roy McMurtry, Attorney General for Ontario, was also present.

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**CONVOCATION RESUMED AT 2:15 P.M.**

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**PRESENT:**

The Treasurer and Messrs. Bowlby, Brulé, Bynoe, Carnwath, Carter, Carthy, Cass, Chadwick, Chappell, Cooper, Fennell, Finlayson, Furlong, R. J. S. Gray, Ground, Mrs. Legge, Messrs. Linden, Lochead, Montgomery, O'Brien, Ogilvie, Pallett, Pepper, Rogers, Seagram, Mesdames Sutherland and Tait, Messrs. Thom, Tobias, Wallace, Williston and Zahoruk.

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**SPECIAL COMMITTEE ON ERRORS AND OMISSIONS INSURANCE**

Mr. J. J. Carthy, Chairman, presented the Report of the Special Committee on Errors and Omissions Insurance of its meeting on Thursday, 6th January, 1977.

In this report your Committee will recommend:

1. Approval of the contract for Errors and Omissions Insurance coverage which is outlined below;
2. That the levy for 1977 be $375;
3. That certain rules be passed with respect to the levy and with respect to any surplus remaining in the Society's insurance fund at the end of the year.

In September Convocation approved this Committee's recommendation that Marsh and McLennan Limited be engaged to act as the Society's brokers in place of J. H. Minet & Co. (Canada) Ltd. and that Marsh & McLennan be instructed to approach the market to obtain quotations on insurance affording similar coverage to the present but on the basis of the Society retaining responsibility for $30,000 per occurrence in excess of a $5,000 deductible with insurance covering the balance to $100,000 per occurrence plus stop-loss insurance against depletion of the Society's fund. They were to obtain quotations on other divisions of responsibility as they might be available.

Your Committee met on Thursday, January 6th, 1977 at 4 p.m., the following members being present, Messrs. Carthy (Chairman), Kellock, Mrs. Legge, Messrs. Linden, O'Brien and Wallace. Present at the Chairman's invitation were: Mr. Stinton, the Society's Claims Manager, Mr. Maltman, the Society's adjuster, and Mr. Morland, representing Marsh & McLennan.

Mr. Morland had reported by letter that quotations had been received from a number of companies including Simcoe & Erie, General Assurance Co., Scottish & York Insurance Co. and Northumberland General Insurance Company but the most attractive quotation had been submitted by Gestas Corporation Limited who offered to provide coverage as follows:

| | |
|---|---|
| $75,000 excess of $25,000 | $90.00 |
| $65,000 excess of 35,000 | 70.00 |
| $50,000 excess of 50,000 | 40.00 |

Included would be stop-loss insurance for an amount which would vary each year depending on the number of lawyers covered by the Plan but with a minimum of $2,000,000. The stop-loss in any year would be calculated by multiplying the number of lawyers in the Plan by 225.

The Committee had before it a letter from Marsh & McLennan dated November 30th reporting on the negotiations they had conducted and containing their recommendation that the quotation put forward by the Gestas Corporation be accepted subject, of course, to suitable policy wording being agreed upon.

The Gestas Corporation Limited, a subsidiary of Sodarcan Limited of Montreal, acts as manager of a group of insurance companies wishing to underwrite professional liability insurance. The group is made up of the following companies:

| | |
|---|---|
| General Security Insurance Company of Canada | 29% |
| The Guarantee Company of North America | 6% |
| La Paix General Insurance Company of Canada | 15% |
| CNA Assurance Company | 10% |
| Gibraltar General Insurance Company | 30% |
| Northumberland General Insurance Company | 5% |
| Victoria Insurance Company of Canada | 5% |

They have granted underwriting and claims authority to Gestas under contract.

The Committee also had before it a report and recommendation from Peter D. Norman, the Society's consultant, recommending the Gestas proposal and suggesting the amount which should be levied on each practising member of the Society and the allocation of funds to cover, in addition to the premium, the cost of adjusting, administration and so on.

Mr. Brendan O'Brien was retained to advise the Society with respect to the terms of the policy and your Committee had before it a draft copy of those terms and of a stop-loss and management agreement between the Society and Gestas Corporation Limited. These draft documents had been the subject of discussion and negotiation between the Society and Gestas Corporation at a meeting on the 16th of December when there were present Mr. O'Brien, the Secretary, Messrs. Stinton, Norman, Lucien Bergeron of Gestas, Raymond Duquette of Gestas, Mr. Morland and Mr. Maltman, at which time substantial agreement was reached on the terms and form of the contracts.

At Convocation on December 2nd, 1976 the Treasurer with the Chairman of the Special Committee on Errors and Omissions Insurance and the Secretary was authorized to

arrange for the practising members of the Society to be held covered from the expiration of the Lloyd's contract until a new contract could be entered into so that there would be no gap in coverage pending Convocation's approval of your Committee's report in January. Accordingly arrangements were made with the Gestas Corporation to provide the necessary interim coverage on the terms of the drafts now before Convocation and which your Committee now recommends be approved by Convocation. The terms your Committee is recommending would provide coverage similar to previous coverage. It is recommended that the individual deductible continue to be $5,000 but that the Society retain responsibility for a group deductible of the next $30,000 per occurrence with Gestas Corporation Limited providing insurance for the next $65,000 per occurrence and in addition stop-loss insurance which would come into effect after approximately $2,000,000 have been paid on account of claims out of the Society's fund, the exact amount of the stop-loss figure to be determined by multiplying the number of members covered by the Plan by 225.

It is expected on the basis of past experience, that almost all of the claims will be paid out of the Society's fund and that very few will exceed the $35,000 level.

It is recommended that F. C. Maltman & Co. Ltd. continue to act as the Society's adjusters.

Provision is made for the establishment of a Claims Committee composed of a representative of the Society and of Gestas Corporation Limited to control payment of damages and expenses in respect of any insured occurrence. It is intended that Mr. Stinton will be the Society's representative on that Committee.

Your Committee recommends that the levy for 1977 be $375. On the basis of 9,000 insured members the levy would produce $3,375,000, which it is recommended should be allocated as follows:

| | | |
|---|---|---|
| To the Society's insurance fund | $225 | $2,025,000 |
| To premium | 70 | 630,000 |
| To adjusting costs | 30 | 270,000 |
| To counsel and legal fees | 12 | 108,000 |
| To administration costs | 10 | 90,000 |
| To start-up costs | 10 | 90,000 |
| | $357 | $3,213,000 |

| | | |
|---|---|---|
| Expected surplus | $18 | $162,000 |
| Expected interest | | 200,000 |
| Total to be carried forward into the next year | | $362,000 |

Mr. O'Brien drew to your Committee's attention the rule-making power under Section 54 (1) (13) of The Law Society Act which reads:

> 54.–(1) Subject to section 55, Convocation may make rules relating to the affairs of the Society and, without limiting the generality of the foregoing,
>
> . . . .
>
> 13. prescribing fees and levies for members and student members or any class of either of them, and providing for the payment and remission thereof and exempting any class of either of them from all or any part of such fees or levies;
>
> . . . .

No rule has been passed under that section specifically covering the levy for professional liability insurance. Mr. O'Brien suggested that a rule be passed making it clear that the prescribed levy can exceed the amount needed to cover the premium and also authorizing the surplus in the Society's Errors and Omissions fund in any year being carried forward into the next year. Your Committee so recommends.

It was moved and seconded that in the paragraph beginning with the words "Your Committee recommends that the levy for 1977 be $375", after these words, the following be added: "provided that if in any year a claim on the fund in respect of the negligence of a member is established and paid, the levy payable by that member for each of the succeeding two years be increased by 50% of the levy payable by that member in the year in which the claim was paid".

It was moved, seconded and *carried* that the problem which gave rise to the amendment be referred back to the Special Committee for consideration.

The first motion was *not put.*

**THE REPORT WAS ADOPTED**

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## DISCIPLINE COMMITTEE (Continued)

### Re: RALPH JOEL STANBROOK, Toronto

Mr. G. H. Lochead, Chairman, placed the matter before Convocation.

The reporter was sworn.

The solicitor attended with his counsel, Mr. R. J. Rolls, Q.C. The Society was represented by Mr. J. D. Crane, Q.C.

Counsel waived the reading of the Decision of the Discipline Committee dated 18th November, 1976, wherein the solicitor was found guilty of professional misconduct. The Committee found that the solicitor had made grossly excessive charges for legal services and improperly charged over $600 in disbursements to a client and that he had failed to maintain his books and records in accordance with the Society's requirements.

It was moved and seconded that the Decision of the Discipline Committee dated 18th November, 1976, wherein the solicitor was found guilty of professional misconduct be accepted.

Counsel for the solicitor accepted the Decision of the Discipline Committee.

The solicitor, counsel and the reporter retired.

The motion that the Decision be accepted was *carried.*

It was moved and seconded that the solicitor be reprimanded in Convocation and required to pay the costs of the Society's investigation in the amount of $3,357.50.

The solicitor, counsel and the reporter returned. The solicitor and counsel were advised that the Decision of the Discipline Committee had been accepted by Convocation and of the motion respecting penalty before Convocation.

The solicitor, counsel and the reporter retired.

The motion that the solicitor be reprimanded in Convocation and required to pay the costs of the Society's investigation was *carried.*

The solicitor, counsel and the reporter returned.

The solicitor was informed of Convocation's action. He was advised of his right of appeal and that if he wished to do so, he could waive his right of appeal and request that the penalty of reprimand be carried out forthwith. The solicitor waived his right of appeal and undertook to pay the costs in the amount of $3,357.50 within three months. The solicitor, counsel and the reporter retired.

Convocation accepted the solicitor's undertaking that he would pay the costs within a three-month period.

The solicitor, counsel and the reporter returned.

The solicitor was advised of Convocation's decision. He executed a waiver of his right of appeal.

The Treasurer reprimanded the solicitor.

. . . . . .

## ADMISSIONS COMMITTEE (Continued)

Mr. P. B. C. Pepper, Chairman, presented the remainder of the Report of the Admissions Committee of its meeting on Thursday, 13th January, 1977.

The following members were present: Mr. P. B. C. Pepper, Chairman, Mrs. L. L. Legge, Vice-Chairman, and Messrs. Cass, Ground, White, and Mrs. Sutherland.

### ADMISSION OF STUDENTS–AT–LAW

#### Bar Admission Course

A further 49 candidates, having complied with the relevant Regulations, paid the required admission fee of $101 and filed the necessary papers, applied for admission to the Law Society as students-at-law in the Bar Admission Course under Regulation 26 (5) as of 1st September, 1976.

A further seven candidates, having complied with the

relevant Regulations, paid the required fee of $101 and filed the necessary papers, applied for admission to the Law Society as students-at-law in the Bar Admission Course which commenced 1st September, 1975. Four of the seven candidates applied under Regulation 26 (5) and one of them, a United Kingdom solicitor, applied under Former Regulation 5 (1). The remaining two candidates, solicitors from British Columbia and Saskatchewan, applied under the General Transfer Regulation and obtained special permission to take the teaching portion of the Bar Admission Course which commenced on 1st September, 1976 in lieu of writing the prescribed examinations.

*Approved*

**DIRECT TRANSFER**

The Committee considered and approved applications to transfer to practice in Ontario by two solicitors, one from New Brunswick and one from Manitoba, who sought permission to proceed under Regulation 4 (1).

**DIRECT TRANSFER FROM QUEBEC**

The Committee had before it 17 applications to transfer to practice in Ontario by 17 members of the Quebec Bar, all of whom sought permission to proceed under Regulation 4 (2) and to take the teaching portion of the Bar Admission Course in lieu of writing the examinations required by the Regulation.

The Committee approved all 17 applications and recommended that a sub-committee be appointed to consider and make recommendations with respect to Regulation 4.

It was moved in Convocation, seconded and *carried* that the applications of those applying to transfer from Quebec (with one exception) be referred back to the Committee so that further consideration can be given to the adequacy of their knowledge of common law and to their qualifications under Regulation 4.

**QUALIFICATIONS FOR ADMISSION TO THE BAR ADMISSION COURSE**

A correspondent enquired whether a criminal record

would prevent admission to the Bar Admission Course and subsequently to the practice of law. The writer had been convicted of non-capital murder about four years ago and given a sentence of mandatory statutory life imprisonment. The Committee had before it letters from the presiding judge and the Crown Attorney who prosecuted the matter, as well as transcripts of the trial and conviction.

The Committee found that such a record would prevent admission to the practice of law.

**OCCASIONAL APPEARANCES**

*Arthur Godfrey Harvey* of the Province of British Columbia applied to proceed under Section 10 of the Regulation "Occasional Appearances in Ontario" of lawyers from other Provinces in the case of *Department of Justice v John Harold Tobe,* Mr. Harvey complied with the requirements of Section 10 of the Regulations, presented a Certificate of Good Standing and asked to receive his call to the Bar of Ontario at the January Convocation.

*Joseph R. Nuss, Q.C.,* of the Province of Quebec, applied to proceed under Section 10 of the Regulation "Occasional Appearances in Ontario" of lawyers from other Provinces in a criminal prosecution, *Regina v R. Gralewicz et al.* He asked to receive his call to the Bar of Ontario at the January Convocation subject to supplying a Certificate of Good Standing and the covering fee.

*James Prober* of the Province of Manitoba applied to proceed under Section 10 of the Regulation "Occasional Appearances in Ontario" of lawyers from other Provinces in a criminal matter, *The Queen v Donald Woodland,* subject to supplying a Certificate of Good Standing and the covering fee.

*Approved*

**SPECIAL PETITION**

The Committee considered a petition from a member of the Alberta Bar who had been teaching at McGill University since 1974. He holds a Certificate from the University of Alberta stating that his law degrees are equivalent to the LL.B. degree granted by the University of Alberta.

The petitioner wrote the Society to determine his eligibility to proceed under Regulation 4 (1). In the alternative, he asked if he might proceed to the Bar Admission Course on the strength of his academic qualifications.

The petitioner appeared before the Committee and made submissions. He stated that he maintains an office in Calgary, pays errors and omissions insurance and renders eight to ten opinions a year to clients in addition to teaching law. He asked to proceed by direct transfer when he has completed three years of practice.

The Committee recommended that the petition be *denied*.

**EXTERNAL EXAMINATIONS**

Two candidates were approved by the Committee to proceed under Regulation 4(2) and former Regulation 5. Two sat the required examination at Osgoode Hall.

The examinations were identified only by numbers and the report of the examiners was before the Committee. One candidate passed; the other failed. The Committee approved the report.

**THE REPORT AS AMENDED WAS ADOPTED**

. . . . . .

Mr. P. B. C. Pepper, Chairman, presented the Report of the Admissions Committee with respect to the application for readmission of *Gordon Ross Mackay*.

The Committee met on June 1st, 1976 and on November 26th, 1976. The Committee was composed of P. B. C. Pepper as Chairman, Mrs. Laura Legge, G. D. Finlayson, C. J. Seagram and Mrs. Sutherland. Mr. J. G. M. White attended the first meeting.

The Committee had before it the application for readmission of Gordon Ross Mackay.

On 1st June, 1976, the applicant attended before the Committee with his counsel, Mr. Earl J. Levy. Counsel

presented evidence of the applicant's activities from the date of his disbarment, 19th May, 1972, to the end of 1975, and adduced further evidence from witnesses with respect to these activities and the applicant's character and health. The applicant then gave evidence on his own behalf.

The Committee was favourably impressed with the applicant and the evidence presented on his behalf and with the applicant's determination to rehabilitate himself. The Committee did not think that sufficient time had elapsed to evaluate the status of such rehabilitation and therefore adjourned the hearing to 1st October, 1976.

Prior to 1st October, 1976, the Committee was advised that the applicant had retained Mr. C. G. Stewart McKeown to represent him. On 1st October, Mr. McKeown appeared before the Committee and requested an adjournment. The hearing was adjourned sine die to be brought on on reasonable notice.

On 26th November, 1976, the applicant and his counsel, Mr. McKeown, appeared before the Committee. The Committee heard evidence from one witness with respect to the applicant's health and from the applicant.

After due deliberation the Committee recommended that the applicant be readmitted on the applicant's undertaking to Convocation to furnish to the Secretary of the Society a brief report from his physician every three months for a year and a final report at the end of the second year and to produce to Convocation a written certificate giving his physician's opinion as to his medical fitness to practise law.

The undertaking and the certificate were before Convocation.

**THE REPORT WAS ADOPTED**

. . . . . .

**SPECIAL COMMITTEE ON SPECIALIZATION IN THE PRACTICE OF LAW**

Mr. Stuart Thom tabled the Report of the Special Committee on Specialization in the Practice of Law of its

meeting on 25th October, 1976.

Convocation deferred consideration of the Report to a later date.

. . . . . .

**SPECIAL CONVOCATION**

A great many items of unfinished business remained on the agenda. The Treasurer announced that he would summon a Special Convocation to take place on Friday, 11th February, 1977, to deal with these items and Discipline matters.

. . . . . .

**CONVOCATION ROSE AT 5:00 P.M.**

. . . . . .

Read in Convocation and confirmed 18th February, 1977.

W. GIBSON GRAY

Treasurer

THE LAW SOCIETY OF UPPER CANADA

# Minutes of Convocation

Volume 1 Number 9

# MINUTES OF SPECIAL CONVOCATION
## (ABRIDGED)

Friday, 11th February, 1977
10:00 a.m.

**PRESENT:**

The Treasurer (Mr. W. Gibson Gray) and Messrs. Bowlby, Bynoe, Carnwath, Carthy, Cartwright, Chadwick, Chappell, Common, Cooper, Farquharson, Fennell, Finlayson, Furlong, R. J. S. Gray, Ground, Mrs. Legge, Messrs. Lochead, Montgomery, O'Brien, Ogilvie, Pallett, Pepper, Rogers, Seagram, Sheard, Shibley, Strauss, Mesdames Sutherland and Tait, Messrs. Thom, Tobias, Wallace and White.

. . . . . .

## PROFESSIONAL CONDUCT COMMITTEE—Mr. Cooper

Mr. A. M. Cooper, Chairman, presented the General Report of the Professional Conduct Committee of its meeting on Thursday, 13th January, 1977.

The following members were present: Messrs. Cooper (Chairman), Kellock (Vice-Chairman), Bowlby, Carnwath, Chappell, Lochead, Strauss, Mrs. Sutherland, Messrs. Tobias and Zahoruk.

The Committee heard lengthy submissions on two separate matters from two lawyers who had requested permission to attend in person. In one case an opinion expressed previously was confirmed. In the other, a Sub-Committee was appointed to look into the question as to what extent a law firm may indicate on its letterhead that it has offices or associate relationships outside the Province of Ontario.

**THE REPORT WAS ADOPTED**

. . . . . .

Mr. Cooper presented the Report of the Professional Conduct Committee with respect to draft new Rules of Professional Conduct which were considered at the Committee's meeting on Thursday, 13th January, 1977.

The following members were present: Messrs. Cooper (Chairman), Kellock (Vice-Chairman), Bowlby, Carnwath, Chappell, Lochead, Strauss, Mrs. Sutherland, Messrs. Tobias and Zahoruk.

At the March 1975 Convocation the Committee's recommendation that the Canadian Bar Association's Code of Professional Conduct be adopted, was accepted. Subsequently, a Sub-Committee of this Committee composed of Mr. E. A. Goodman as Chairman, Mrs. Tait and Messrs. R. J. Gray and Seagram was appointed to consider the integration of the Code with the Society's present Rulings. The Sub-Committee's Report was received and considered. On the basis of that Report the Committee recommended the following:

1. That Section 23 of the Regulation made pursuant to The Law Society Act be repealed and the following substituted therefor:

> "The Professional Conduct Committee is authorized to prepare and publish handbooks containing the rules of professional conduct and ethics approved from time to time by Convocation."

The foregoing is in accordance with the Committee's recommendation contained in the October 1976 Report which was adopted by Convocation. At that time the Committee expressed the view that the present Section 23 appears to be too specific with the result that its force might well be spent and therefore an amendment would be required to ensure that the power to make such Rulings will continue to exist.

2. That the present Rulings contained in this Professional Conduct Handbook be repealed and replaced by the Rules contained in Schedule A.

It was moved and seconded that the first item of the Report be adopted and that the draft new Rules be tabled.

It was moved and seconded that the Rules be tabled and referred to the Secretary and Deputy Secretary to compare the

Canadian Bar Association Code of Professional Conduct with the Society's Professional Conduct Rulings with a view to having one book, in which the first Rulings would be the C.B.A. Code and the other Rulings would be those still considered necessary in addition to the Code.

It was moved, seconded and *carried* that the second motion be amended by deleting what follows the word "book" so that it would read "that the Report be tabled and referred to the Secretary and Deputy Secretary to compare the Code with the Professional Conduct Rulings with a view to having one book".

The second motion as amended was *carried.*

The first motion as amended by the second motion was *carried.*

**THE FIRST ITEM OF THE REPORT WAS ADOPTED**

. . . . . .

## LEGAL AID COMMITTEE–Mr. Bowlby

Mr. J. D. Bowlby, Chairman, presented the Report of the Legal Aid Committee of its meeting on Wednesday, 8th December, 1976.

The following members were present: John D. Bowlby, Chairman, and Messrs. Carnwath, Cherniak, Ferrier, Mrs. Fleming, Mr. Harris, Mrs. Jarmain, Messrs. Jones, Lamb, Lewis, Linden, Ogilvie, Shaffer, Mrs. Smyth, Miss Vaughan, Mr. Wallace.

Also in attendance by special invitation was Mrs. Gretta Grant, Area Director, Middlesex, Oxford and Perth Counties.

### REPORT OF THE DEPUTY DIRECTOR

*Finance*

The following table compares the actual net expenditure of the Legal Aid Fund for the first seven months of this fiscal year with the budget as originally submitted by the Plan and with the budget now imposed by the Province.

| | *Actual Cost to Oct. 31, 1976* | *Legal Aid Budget* | *Under(Over) Legal Aid Budget* | *Province Budget* | *Under(Over) Province Budget* |
|---|---|---|---|---|---|
| | **$,000** | **$,000** | **$,000** | **$,000** | **$,000** |
| **Fees and Disbursements** | | | | | |
| Criminal | 7,658.6 | 8,160.6 | 502.0 under | 5,459.1 | (2,199.5) over |
| Civil | 4,563.4 | 4,233.6 | (329.8) over | 3,246.2 | (1,317.2) over |
| Advice | 92.7 | 162.5 | 69.8 under | 100.3 | 7.6 under |
| Duty Counsel | 1,328.3 | 2,044.7 | 716.4 under | 1,604.2 | 275.9 under |
| | 13,643.0 | 14,601.4 | 958.4 under | 10,409.8 | (3,233.2) over |
| Community Legal Service Groups | 509.2 | 165.8 | (343.4) over | 554.2 | 45.0 under |
| Student Legal Aid Societies | 102.0 | 102.0 | – | 102.0 | – |
| Area Office Costs | 1,516.9 | 1,592.4 | 75.5 under | 1,576.0 | 59.1 under |
| Administrative Expenses | 1,020.5 | 1,167.8 | 147.3 under | 1,085.8 | 65.3 under |
| | 16,791.6 | 17,629.4 | 837.8 under | 13,727.8 | (3,063.8) over |
| Less: | | | | | |
| Client Contributions and Costs | 1,165.3 | 1,166.8 | 1.5 under | 1,166.7 | 1.4 under |
| Miscellaneous Income | 86.4 | 36.5 | (49.9) over | 36.8 | (49.6) over |
| | 15,539.9 | 16,426.1 | 886.2 under | 12,524.3 | (3,015.6) over |

The unusually large balance of 2.9 million dollars in the Fund at the end of October, 1976, arises because the November requisition from the Government was received on the last day of October.

*Statistics*

Activity for the seven months ended October 31, 1976, continues to show a decrease in the number of applications for certificates when compared with last year. This, combined with an increase in refusals, leads to a continuing decline in the number of certificates actually issued.

| | *7 month Period Ended* | | *% Change from* |
|---|---|---|---|
| | *Oct. 31, 1976* | *Oct. 31,1975* | *Last Year* |
| Informal Applications | 56,730 | 55,750 | + 1.8 |
| Applications for Certificates | 59,672 | 63,304 | – 5.7 |
| Refusals | 18,647 | 17,004 | + 9.7 |
| Certificates issued | 45,061 | 50,662 | – 11.1 |
| Persons Assisted by Duty Counsel | 90,003 | 88,066 | + 2.2 |

*Budget 1977–78*

The Deputy Director presented the following budget proposal for the fiscal year commencing April 1, 1977. This budget was approved in principle by the Committee.

The Budget for 1977–78:

1. Assumes no change in legislation from that under which Legal Aid now operates.
2. Contains provision for an increase in tariffs effective April 1, 1977, achieved by lowering the statutory reduction from 25% to 10%. Estimated impact of this increase in 1977–78 is $2.288 million.
3. Does not take into account the cost of re-organization or the possible reduction in service level which may arise from C.S.S. proposals respecting financial assessment.
4. Provides for a programme of public information at an estimated cost of $150,000, including both personnel and material costs.
5. Contains salary increases for existing staff based upon AIB guidelines, and increases in retainers of part-time Area Directors.
6. Includes provision for additional staff and related costs, as follows:

| | *Provincial Office* | *York County* | *Other Areas* | *Total* |
|---|---|---|---|---|
| Number | 11 | 5 | 3 | 19 |
| | $ | $ | $ | $ |
| Estimated salaries | 131,800 | 78,000 | 27,800 | 237,600 |
| Employee benefits | 13,180 | 7,800 | 2,780 | 23,760 |
| Furniture & Equipment | 13,900 | 4,500 | 5,400 | 23,800 |

7. Includes, as part of the provision for Student Legal Aid Societies, the sum of $130,000 for improved supervision. The cost of hiring students for the summer months, estimated at $215,000, is not provided for in this budget. Historically, this expense has been funded by the Provincial Government under its Youth Secretariat Experience programme.

ONTARIO LEGAL AID PLAN
SUMMARY OF BUDGET 1977–78
$,000

| Estimated Expenditure | | | | *1977–78* | *1976–77* |
|---|---|---|---|---|---|
| 1. Legal Aid Fees & Disbursements | | | | | |
| | *No. of A/Cs* | *Av. Cost* | *Total* | | |
| Criminal | 36,200 | .407 | 14,748.0 | | |
| Divorce | 6,200 | .548 | 3,399.0 | | |
| Other Civil | 17,500 | .288 | 5,040.0 | | |
| Advice | 2,500 | .058 | 146.0 | 23,333.0 | 20,741.5 |
| | 62,400 | | | | |
| 2. Duty Counsel Services | | | | | |
| | *Persons* | *Av. Cost* | *Total* | | |
| Criminal | 98,300 | 18.17 | 1,786.2 | | |
| Civil | 44,800 | 21.15 | 947.5 | 2,733.7 | 2,550.0 |
| | 143,100 | | | | |
| 3. Funding of Community Legal Service Groups | | | | 1,700.0 | 950.0 |
| 4. Student Legal Aid Societies | | | | 317.0 | 126.0 |
| 5. Duty Counsel Pilot Project | | | | 196.8 | – |
| 6. Northern Ontario Pilot Project | | | | 125.0 | – |
| 7. Area Office Costs | | | | 3,093.0 | 2,701.7 |
| 8. Provincial Office Costs | | | | 2,472.0 | 1,861.3 |
| | | | | 33,970.5 | 28,930.5 |
| To be funded by: | | | | | |
| Provincial Treasury | | | | 28,870.5 | 23,830.5 |

| | | |
|---|---|---|
| Law Foundation | 3,000.0 | 3,000.0 |
| Client contributions | 1,250.0 | 1,250.0 |
| Costs awarded | 750.0 | 750.0 |
| Miscellaneous income | 100.0 | 100.0 |
| | 33,970.5 | 28,930.5 |

## REPORT OF THE LEGAL ACCOUNTS OFFICER

### *Activity*

| | *1976/77 Fiscal Year* | | *1975/76 Fiscal Year* | |
|---|---|---|---|---|
| | *Month of November* | *8 Months to Nov. 30* | *Month of November* | *8 Months to Nov. 30* |
| Accounts on hand at beginning | 4425 | 5087 | 4487 | 8839 |
| Accounts received | 5863 | 42539 | 4971 | 39572 |
| Total Accounts to be processed | 10288 | 47626 | 9458 | 48411 |
| Less: Files Cancelled | 54 | 305 | 18 | 238 |
| Accounts Processed | 6035 | 43122 | 5280 | 44013 |
| Balance | 4199 | 4199 | 4160 | 4160 |

The above figures do not reflect accounts for Interim Disbursements and Supplementary Payments.

### *Reviews*

| | *November 1976* | *8 months to Nov. 30/76* | *8 months to Nov. 30/75* |
|---|---|---|---|
| Reviews on hand at beginning of | 148 | | |
| Reviews received in | 138 | 1009 | 512 |
| | 286 | | |
| Settlements reviewed in | 65 | 841 | 410 |
| Settlements awaiting review at end of | 212 | | |
| Settlements awaiting further information at end of | 9 | | |
| | 286 | | |

### *Appeals*

| | *September* | *October* | *November* |
|---|---|---|---|
| Appeals to Taxing Master received during November | – | – | 2 |

| | *September* | *October* | *November* |
|---|---|---|---|
| Appeals heard by Taxing Master | 1 | – | 3 |
| Appeals pending at the end of the month | 6 | 6 | 5 |

## SUB–COMMITTEE ON LEGAL ACCOUNTS

On Wednesday, 10th November, 1976, the Sub-Committee on Legal Accounts under the chairmanship of G. D. Finlayson met and proposed certain amendments to the Legal Aid tariffs. The Committee reviewed the Sub-Committee's report and recommended that the report be received and that certain changes be made. The Committee requested that the report be considered at its January meeting.

## EXTRAORDINARILY LONG CRIMINAL TRIALS

On Saturday, 4th December, 1976, a meeting was called in the Provincial Director's office to discuss the effects on the Legal Aid Plan of extraordinarily long trials in criminal cases. The impetus for the meeting arose from the prospect of a prosecution against a large number of accused, on some fifty fraud charges. The preliminary hearing is estimated to last between six and nine months, sitting four days per week.

Attending the meeting were John D. Bowlby, Chairman; Professor Allen Linden, Vice-Chairman; Audrey Rosenthal, Legal Accounts Officer; Gretta Grant, Q.C., Area Director, Middlesex, Oxford and Perth Counties; W. Reid Donkin, Area Director, York County; Arthur Whealy, President, Criminal Lawyers Association; John Hamilton, solicitor; F. J. Greenwood, Director of Crown Attorneys; J. P. Rickaby, Senior Crown Attorney, York County; Julius Isaac, Crown Attorney, Department of Justice.

The Chairman reported that a transcript of the meeting was available and that a Sub-Committee consisting of Professor Allen Linden, D. J. Humphrey, R. J. Carter, and Arthur Whealy had been appointed to review the suggestions made at the meeting and that the Sub-Committee would submit, in the near future, its recommendations to the Legal Aid Committee.

## LEGAL AID COMMITTEE

Lyle S. Fairbairn, solicitor, Program/Law Information Development Section, Department of Justice in Ottawa, tendered his resignation as a member of the Legal Aid Committee. Mr. Fairbairn stated that his duties with the department require him to develop and maintain a close working relationship with the Ontario Legal Aid Plan staff and with representatives of the Ministry of the Attorney General and concluded that his membership on the Committee would impair his ability to develop a proper working relationship within Ontario.

The Committee accepted Mr. Fairbairn's resignation with regret and noted his outstanding service and dedication to the development of the Ontario Plan. The Director was instructed to write Mr. Fairbairn expressing the Committee's gratitude for his outstanding contribution.

## 10TH ANNIVERSARY, ONTARIO LEGAL AID PLAN

On 29th March, 1977, the Ontario Legal Aid Plan will have reached its 10th anniversary. The Chairman appointed a Sub-Committee composed of Professor Allen Linden, Isadore Levinter, Bernard Shaffer, James B. Chadwick, and Mrs. Ruth Jarmain, to formulate plans to mark the anniversary.

## REGIONALIZATION – THE USE OF PARALEGAL PERSONNEL IN AREA OFFICES

At the annual meeting of the Law Society and the meeting of the presidents of the County and District Law Associations, the Chairman discussed the Society's desire to move toward regionalization under which the province will be divided into larger areas, resulting in fewer directors, thus achieving greater uniformity. A valid criticism of the Plan is that it is not even-handed in administration due to the varying discretion of 46 Area Directors, causing the delivery to be seriously fragmented.

The Committee recommended that the senior Legal Aid administrators proceed with the development of a plan to regionalize, including a plan for the training of paralegal

personnel to manage the Area Director's offices when the Regional Director is not personally present, and report to a sub-committee which the Chairman will appoint.

## INFORMATION BANK ON LEGAL AID IN CANADA

At its meeting in October, the Legal Aid Committee considered a memorandum from John B. Allen, Special Assistant to the Provincial Director, concerning a proposed information bank.

The Provincial Directors in 1976 decided to investigate the feasibility of setting up an information bank on legal aid in Canada on a two-year pilot project basis. Information as to the type of legal aid existing throughout Canada, advertising programmes, computer programmes, statistical information, etc., would be forwarded to the bank and such information would be distributed to the various Legal Aid Plans in Canada.

The Legal Aid Committee approved in principle the project; however, the initial proposed budget proved inadequate. The best information indicated that a more realistic budget for the first year would be $70,000 and for the second year $92,000. The Provincial Legal Aid Plans were called upon to pledge a sum approximately $20,000. Ontario was asked to provide a further amount of $10,000 ($1,000 having already been pledged). The Quebec Commission had obtained a commitment from the province's Justice Department of $5,000 for the first year and $10,000 for the second year.

In view of the economic restraints now being emphasized, the Legal Aid Committee did not approve the sum of $10,000. However, the Committee suggested that this matter be referred to the Ministry of the Attorney General in order to acquaint the province with the request. It was felt that the Ministry might be interested in participating in this project.

The Ministry of the Attorney General has now approved a commitment of $10,000 for the second year of the project.

## AREA COMMITTEES

Section 4 (1) of The Legal Aid Act provides that the Law Society may appoint a Legal Aid Committee for an area.

The Committee recommended the following be appointed as members of the Area Committees in:

**Welland**

Pamela V. Walker, solicitor, Niagara Falls
David A. Crowe, solicitor, Niagara Falls

**Essex County**

Bryon Rourke, doctor, Windsor

**RESIGNATIONS**

**Welland**

Douglas McDermid, solicitor, Niagara Falls
Maurice Keck, Port Colborne.

**THE REPORT WAS ADOPTED**

. . . . . .

Mr. Bowlby presented the Report of the Legal Aid Committee of its meeting on Wednesday, 19th January, 1977.

The following members were present: Professor A. M. Linden, Vice-Chairman in the Chair, and John D. Bowlby, Chairman, Messrs. Carnwath, Carter, Hamer, Harris, Mrs. Jarmain, Messrs. Jones, Lamb, Lewis, Mrs. Smyth, Mr. Ogilvie, Miss Vaughan, Mr. Wallace.

A. C. Whealy, Toronto, was also in attendance as an observer from the Criminal Lawyers Associations.

Also in attendance by special invitation was John Weisdorf, Director of Duty Counsel, Old City Hall, Toronto.

**REPORT OF THE DEPUTY DIRECTOR**

*Finance*

The budget for this fiscal year will be adjusted to reflect additional funding approved by Management Board. Legal Aid is awaiting confirmation of the value of this supplementary estimate.

The following table, therefore, compares actual performance of the Legal Aid Fund for the eight month period ended November 30, 1976, not with budget, but with the same eight month period last year.

| | *Actual Cost to Nov. 30, 1976* *$,000* | *Actual Cost to Nov. 30, 1975* *$,000* |
|---|---|---|
| Fees and disbursements | | |
| Criminal | 8,713.2 | 7,799.5 |
| Civil | 5,281.2 | 4,802.8 |
| Advice | 103.4 | 137.8 |
| Duty Counsel | 1,529.6 | 1,606.0 |
| | 15,627.4 | 14,346.1 |
| Community Legal Service Groups | 588.3 | 154.8 |
| Student Legal Aid Societies | 102.0 | 82.0 |
| Area Office Costs | 1,736.7 | 1,629.1 |
| Adminstrative Expenses | 1,183.9 | 1,186.8 |
| | 19,238.3 | 17,398.8 |
| Less: | | |
| Client contributions and costs | 1,335.1 | 1,241.6 |
| Miscellaneous income | 86.4 | 50.6 |
| Total Net Expenditure | 17,816.8 | 16,106.6 |

*Statistics*

The following table compares reported activity for the eight month period ended November 30, 1976, with the same eight month period in 1975.

| | *8 months Period Ended* *Nov. 30, 1976* | *Nov. 30, 1975* | *% Change from Last Year* |
|---|---|---|---|
| Informal Applications | 64,919 | 62,441 | + 3.9 |
| Applications for Certificates | 68,778 | 72,049 | – 4.5 |
| Refusals | 21,574 | 18,989 | + 13.6 |
| Certificates issued | 51,757 | 57,662 | – 10.2 |
| Persons assisted by Duty Counsel | 105,610 | 99,295 | + 6.4 |

*Write-Offs*

George E. Wallace, Vice-Chairman, approved the write-off of the following total of amounts due to the Legal Aid Fund: $16,615.60

## REPORT OF LEGAL ACCOUNTS OFFICER

### *Reviews*

| | *December 1976* | *9 months to Dec. 31/76* | *9 months to Dec. 31/75* |
|---|---|---|---|
| Reviews on hand at beginning of | 277 | | |
| Reviews received in | 105 | 1147 | 560 |
| | 382 | | |
| Settlements reviewed in | 46 | 906 | 439 |
| Settlements awaiting review at end of | 323 | | |
| Settlements awaiting further information at end of | 13 | | |
| | 382 | | |

### *Appeals*

| | *October* | *November* | *December* |
|---|---|---|---|
| Appeals to Taxing Master received during December | | | 1 |
| Appeals heard by Taxing Master | – | 3 | 2 |
| Appeals pending at the end of the month | 6 | 5 | 4 |

### *Activity*

| | *1976/77 Fiscal Year* | | *1975/76 Fiscal Year* | |
|---|---|---|---|---|
| | *Month of December* | *9 Months to Dec. 30* | *Month of December* | *9 Months to Dec. 30* |
| Accounts on hand at beginning | 4199 | 5087 | 4160 | 8839 |
| Accounts received | 5281 | 47820 | 5355 | 44927 |
| Total Accounts to be processed | 9480 | 52907 | 9515 | 53766 |
| Less: Files Cancelled | 34 | 339 | 27 | 265 |
| Accounts Processed | 4408 | 47530 | 3847 | 47860 |
| Balance | 5038 | 5038 | 5641 | 5641 |

The above figures do not reflect accounts for Interim Disbursements and Supplementary Payments.

## ADMINISTRATIVE STAFF

John B. Allen, Special Assistant to the Provincial Director, was appointed to the Provincial Bench effective January 17th, 1977.

Mrs. J. Glyde Hone joined the Provincial staff on January 4th to fill the position of an Assistant Provincial Director.

Mrs. Hone is a member of the Manitoba and British Columbia Bars and comes from Winnipeg where she has been Area Director for the Central and Eastern Judicial Districts. Mrs. Hone's major responsibilities will be:

(1) Liaison with Area Directors' offices to ensure uniformity of delivery of legal services;

(2) Supervising the processing of criminal and civil appeals under Section 14 of The Legal Aid Act, including liaison with the Court of Appeal;

(3) Processing applications for relief under Part VII of the Regulation;

(4) Considering applications for extension of limitation of criminal certificates;

(5) Ensuring compliance with the Federal-Provincial Cost Sharing Agreement.

## DUTY COUNSEL – OLD CITY HALL, YORK COUNTY

A Sub-Committee under the chairmanship of Professor Allen Linden was appointed to consider the entire function of Duty Counsel as provided for under the legislation. In September 1976 Convocation approved the Sub-Committee's report and recommended that a full-time director be appointed to supervise six staff lawyers who will replace solicitors serving on the Duty Counsel roster in Provincial Judges' Courts, Old City Hall, York County. The Committee stipulated that the pilot project for the extended Duty Counsel be instituted for a period not exceeding two years during which time it will be monitored and evaluated by the Legal Aid Committee which will report to Convocation from time to time.

John Weisdorf has accepted the invitation to become the first director of the extended Duty Counsel experiment

commencing immediately.

Mr. Weisdorf has had long experience in criminal defence work, as a Crown Counsel, as an official in the early stages of the Legal Aid Plan and as a teacher in the criminal law field.

**CLINICAL FUNDING COMMITTEE**

The Clinical Funding Committee met with representatives of Canadian Environmental Law Research Foundation on January 12th, 1977, and discussed with them a request for additional funding.

Following a review of that request and discussions with CELA, the Clinical Funding Committee recommended that effective October 1st, 1976, and extending to March 31st, 1977, a further $997.76 be paid to this agency each month in addition to the monthly payments presently being made pursuant to the Funding Committee's recommendation of May 5th, 1976.

On this basis the total monthly payment to Canadian Environmental Law Research Foundation would be $2,997.76.

**AREA COMMITTEES**

Section 4 (1) of The Legal Aid Act provides that the Law Society may appoint a Legal Aid Committee for an area.

The Committee reported that the following Area Committee member had resigned:

**Simcoe County**

P. G. M. Hermiston, solicitor, Barrie.

**THE REPORT WAS ADOPTED**

. . . . . .

Mr. Bowlby presented the Report of the Legal Aid Committee dated 9th February, 1977, with respect to Legal Aid Tariffs.

A Sub-Committee of the Legal Aid Committee under the

chairmanship of Mr. G. D. Finlayson, was formed to report on the Legal Aid Tariffs.

On 10th November, 1976, a report was received, the thrust of which was to recommend that the voluntary reduction (25%) presently made by solicitors on their accounts rendered to the Ontario Legal Aid Plan, be reduced to 10%. This would mean an effective increase in solicitor fees of 20%.

Mr. Justice Osler in his report in regards to the 25% contribution, made the following recommendation:

> "Payment of lawyers doing Legal Aid work should continue to be based on tariffs but the 25% charitable contribution by lawyers should be eliminated. However, lawyers' fees should be reduced by 10% to account for the fact that there are no longer any 'bad debts'."

The tariff was last amended on the 1st September, 1973. This has been the only amendment to the Legal Aid tariff since the passage of the Ontario Legal Aid Act and its regulations (1967). It should be underlined that no increase in individual tariff items is being recommended at this time.

It has been a matter of growing concern among members of the Legal Aid Committee that the profession is not being adequately compensated for the legal work they are asked to perform. This does not mean a retreat from the original philosophy inherent in the Plan, i.e., that the fee paid should only be consistent with that which could be afforded by a client of modest means, but simply reflects a judgment that if the level of compensation falls below a certain level, then the effect of this would be to discourage participation in the Ontario Plan by lawyers who, through experience and ability, are best able to serve the public.

It has been noted that there are fewer senior lawyers participating in the Legal Aid Plan and the following figures tend to illustrate this fact:

Solicitors with 6 years of experience or less accounted for:

in 1970-71 – 40% of the work load
in 1973-74 – 47% of the work load
in 1975-76 – 52% of the work load

The reciprocal of this statement is that solicitors having at

least 7 years of experience accounted for:

in 1970-71 – 60% of the work load
in 1973-74 – 53% of the work load
in 1975-76 – 48% of the work load

It should, however, be noted that these figures may be somewhat illusory because of the ever increasing number of lawyers being absorbed into the profession each year.

There has also, of course, been a very marked increase in the overhead cost involved in the operation of a legal practice. No lawyer should be asked to perform work for sums which would barely exceed his expenses.

The following statistics in regards to the increase in the Consumer Index should be of assistance in illustrating this problem.

**Consumer Price Index**

| *Calendar Year* | *Index* | *% Increase from Year to Year* |
|---|---|---|
| 1967 | 86.5 | |
| 1968 | 90.0 | 4.0 |
| 1969 | 94.1 | 4.6 |
| 1970 | 97.2 | 3.3 |
| 1971 | 100.0 | 2.9 |
| 1972 | 104.8 | 4.8 |
| 1973 | 112.7 | 7.5 |
| 1974 | 125.0 | 10.9 |
| 1975 | 138.5 | 10.8 |
| 1976 | 148.9 | 7.5 |

NOTES:

1. C.P.I. increase from 1967 to 1973 was 30.3%. Legal Aid tariff increased September 1, 1973, by approximately 25%.
2. C.P.I. increase from 1973 to 1976 was 32.1%. Proposed tariff increase equals 20%.

In order to bring about the intent of the Legal Aid Committee, and hopefully of Convocation, an amendment will have to be made to the Legal Aid Act. This problem was discussed between the Chairman and Mr. McMurtry on January 28th, 1977. If the proposal of the Legal Aid Committee in

regards to the tariff is approved by Convocation, then it will be referred to the Attorney General's Department to implement the passage of necessary legislative amendments.

One of the most persistent criticisms of the Ontario Legal Aid Plan, or its administration by the Law Society of Upper Canada, has been that we have not been resolute enough in our dealings with the Ontario Government, particularly in regards to financial matters. This is a criticism which is deemed to be spurious but can be best answered by our pressing for tariff changes which we feel must and should be implemented.

It was the view of the Legal Aid Committee that the tariff changes apply only to certificates issued after April 1st, 1977.

**THE REPORT WAS ADOPTED UNANIMOUSLY**

. . . . . .

Mr. Bowlby presented the Report of the Legal Aid Committee of its meeting on Wednesday, 9th February, 1977.

The following members were present: John D. Bowlby, Chairman, and Messrs. Barnes, Chadwick, Ferrier, Mrs. Fleming, Messrs. Hamer, Harris, Mrs. Jarmain, Messrs. Lewis, Linden, Ogilvie, Mrs. Smyth, Mr. Wallace.

A. C. Whealy, Toronto, was also in attendance as an observer from the Criminal Lawyers Association.

Also in attendance by special invitation was John Weisdorf, Director of Duty Counsel, Old City Hall, Toronto.

**REPORT OF THE DEPUTY DIRECTOR**

*Finance*

The Legal Aid Budget for this fiscal year has now been adjusted to reflect a supplementary estimate of $5.133 million approved by Management Board of Cabinet.

After prorating the revised budget, the Director's report for the nine months to December 31, 1976, shows that the Legal Aid Fund has exceeded net budgeted expenditure by $306,000 as follows:

| Over Budget | $ | $ |
|---|---|---|
| Fees and disbursements | | |
| Criminal | 294,000 | |
| Civil | 262,000 | |
| Advice | 1,000 | 557,000 |
| **Under Budget** | | |
| Duty Counsel payments | 126,000 | |
| Community clinics | 45,000 | |
| Area Office costs | 12,000 | |
| Administrative costs | 48,000 | 231,000 |
| | | 326,000 |
| Less: | | |
| Income in excess of budget: | | |
| Client contributions and costs | 9,000 | |
| Miscellaneous | 11,000 | 20,000 |
| *Net over-expenditure* | | 306,000 |

## *Statistics*

The following table compares reported activity for the nine month period ended December 31, 1976, with the same nine month period in 1975.

| | *9 Month Period Ended* | | *% Change from* |
|---|---|---|---|
| | *Dec. 31, 1976* | *Dec. 31, 1975* | *Last year* |
| Informal applications | 71,824 | 69,691 | + 3.1 |
| Applications for Certificates | 76,062 | 79,786 | – 4.7 |
| Refusals | 23,963 | 21,069 | + 13.7 |
| Certificates issued | 57,328 | 64,080 | – 10.5 |
| Persons assisted by Duty Counsel | 118,379 | 110,679 | + 6.9 |

## *Write-Offs*

George E. Wallace, Vice-Chairman, approved the write-off of the following total of amounts due to the Legal Aid Fund: $36,214.34

## REPORT OF THE LEGAL ACCOUNTS OFFICER

### MONTHLY REPORT

### JANUARY, 1977

## *Reviews*

| | *January 1977* | *10 months to Jan. 31/77* | *10 months to Jan. 31/76* |
|---|---|---|---|
| Reviews on hand at beginning of | 336 | | |
| Reviews received in | 107 | 1254 | 675 |
| | 443 | | |
| Settlements reviewed in | 198 | 1104 | 491 |
| Settlements awaiting review at end of | 225 | | |
| Settlements awaiting further information at end of | 20 | | |
| | 443 | | |

## *Appeals*

| | *November* | *December* | *January* |
|---|---|---|---|
| Appeals to Taxing Master received during January | | | – |
| Appeals heard by Taxing Master | 3 | 2 | 1 |
| Appeals pending at the end of the month | 5 | 4 | 4 |

## *Activity*

| | *1976/77 Fiscal Year* | | *1975/76 Fiscal Year* | |
|---|---|---|---|---|
| | *Month of January* | *10 Months to Jan. 31* | *Month of January* | *10 Months to Jan. 31* |
| Accounts on hand at beginning | 5038 | 5087 | 5641 | 8839 |
| **Accounts received** | 5219 | 53039 | 5350 | 50277 |
| Total Accounts to be processed | 10257 | 58126 | 10991 | 59116 |
| Less: Files cancelled | 30 | 369 | 26 | 291 |
| Accounts Processed | 4863 | 52393 | 5835 | 53695 |
| Balance | 5364 | 5364 | 5130 | 5130 |

The above figures do not reflect accounts for Interim Disbursements and Supplementary Payments.

**ADMINISTRATIVE STAFF**

Harvey S. Savage, solicitor, has been appointed Assistant Provincial Director.

Mr. Savage's special responsibilities will be in the area of clinical delivery systems and the provision of Legal Aid to native Canadians.

Mr. Savage is a member of the Bar of Ontario and also of the Bar of Nova Scotia and comes with a highly qualified background. Mr. Savage is well known in legal aid circles in Canada for his work among the native peoples in the District of Kenora and also as a former Executive Director of the Dalhousie Legal Aid Service.

**AREA DIRECTORS' MEETING**

An Area Directors' Meeting will be held on Friday, February 11th, 1977. The meeting will take place in the Provincial Director's Boardroom from 9:30 a.m. to 5:00 p.m.

**10TH ANNIVERSAY – ONTARIO LEGAL AID PLAN**

The Legal Aid Plan will celebrate its 10th anniversary on April 1st, 1977. The Committee recommended that the Law Society should observe this milestone.

The Committee has approved in principle that a two-day seminar be held on May 25th and 26th. The seminar will be divided into discussion groups which will deal with various aspects of Legal Aid delivery and, in particular, the future of the Ontario Legal Aid Plan. Members of the public and members of the profession will be invited to participate. Professor Allen Linden, Vice-Chairman, will organize the seminars. A dinner will be held on May 26th which will culminate the two-day sessions.

From April 1st to May 25th, a public information programme will be carried out which will demonstrate to the public how the Plan has served the citizens of this province.

**USE OF PARALEGAL PERSONNEL IN AREA OFFICES**

One of the criticisms that has been made of Legal Aid

through the Osler Report is that it is "not evenhanded enough" due to the varying discretion of the 46 directors causing the method of delivery to be fragmented. The Plan is, therefore, moving toward a project under which the province will be divided into much larger areas. An area director (a lawyer) will rotate between three or four area offices each week.

Regionalization will not be possible without a trained group of laymen of known capability present in the Legal Aid office at all times. This will require that the Legal Aid paralegals take all of the same courses and pass all the same tests. That, in turn, will require the organization of courses or a series of materials or a combination of both by which they are to be trained.

W. Reid Donkin, Area Director, York County, was asked by the Committee to prepare a report on the training of such paralegal personnel. Mr. Donkin presented to the Legal Aid Committee a memorandum which will be placed before the Area Directors at their meeting on February 11th, 1977.

**THE REPORT WAS ADOPTED**

. . . . . .

## DISCIPLINE COMMITTEE—Mr. Lochead

### Re: VICTOR BEUBE, Toronto

Mr. G. H. Lochead, Chairman, placed the matter before Convocation.

The reporter was sworn. Mr. Cooper withdrew from Convocation.

The solicitor attended with his counsel, Mr. Thomas J. Dunne. Mr. S. E. Traviss appeared for the Society.

Counsel waived the reading of the Decision of the Discipline Committee dated 27th January, 1977, wherein the solicitor was found guilty of professional misconduct. The Committee found that he had misappropriated $20,000 belonging to clients, made improper payments from his trust account and falsified his accounting records.

It was moved and seconded that the Decision of the Discipline Committee be accepted.

Counsel made no submissions. The solicitor accepted the Decision of the Discipline Committee. The solicitor, counsel and the reporter retired.

The motion that the Decision be accepted was *carried*.

It was moved and seconded that Convocation by Order disbar the solicitor and that his name be struck off the Roll of Solicitors and that his membership in the Society be cancelled.

It was moved and seconded that the solicitor be reprimanded in Convocation on his entering into an undertaking to Convocation that he accepts supervision of his records and accounts by a chartered accountant approved by the Society until Convocation withdraws such requirement, and that the solicitor be required to pay the costs incurred by the Society in the amount of $428.90 in connection with the investigation and prosecution of the Complaint.

The solicitor, counsel and the reporter returned.

The solicitor and counsel were advised that the Decision of the Discipline Committee had been accepted and of the motions respecting penalty before Convocation. Because the motion for disbarment could impose a more severe penalty than that recommended by the Discipline Committee, counsel for the solicitor was informed that he might have an adjournment if he so desired.

The solicitor and his counsel withdrew to consider whether to request adjournment.

Counsel for the Society and the reporter also withdrew.

The solicitor, counsel and the reporter returned.

The solicitor and his counsel stated they were prepared to proceed.

Convocation, with the consent of the solicitor and counsel, directed that the matter stand adjourned until 2:30 p.m.

. . . . . .

**CONVOCATION ADJOURNED FOR LUNCHEON AT 12:40 P.M.**

. . . . . .

The Treasurer and Benchers had as their guests for luncheon The Honourable W. Z. Estey, Chief Justice of Ontario, and The Honourable G. T. Evans, Chief Justice of the High Court of Justice for Ontario, both of whom were sworn in before the Lieutenant-Governor of Ontario on Monday, 7th February, 1977.

. . . . . .

**CONVOCATION RESUMED AT 2:20 P.M.**

. . . . . .

**PRESENT:**

The Treasurer and Messrs. Bowlby, Bynoe, Carnwath, Cartwright, Chadwick, Cooper, Fennell, Finlayson, Furlong, R. J. S. Gray, Ground, Mrs. Legge, Messrs. Lochead, Montgomery, O'Brien, Ogilvie, Pallett, Pepper, Seagram, Mesdames Sutherland and Tait, Messrs. Thom, Tobias, Wallace and White.

. . . . . .

## DISCIPLINE COMMITTEE (Continued)

### Re: VICTOR BEUBE, Toronto

Mr. Cooper remained in Convocation although he took no part in the discussion and did not vote.

The solicitor, counsel and the reporter returned.

Counsel for the solicitor made submissions. He referred to two earlier discipline cases and requested copies of the Decisions in those cases. The solicitor, counsel and the reporter withdrew.

It was moved and seconded that counsel be provided with copies of the Decisions of the Discipline Committees in the two earlier cases and that the matter (but not the motions respecting penalty) be adjourned one week to 18th February, 1977.

It was moved by way of amendment, seconded and *carried* that the words "if counsel so request" be added before the words "the matter (...) be adjourned" in the motion.

The first motion as amended was *carried*.

The solicitor, counsel and the reporter returned.

The solicitor and counsel were told of the motion which Convocation had passed.

Counsel for the solicitor requested and was granted an adjournment of twenty minutes.

. . . . . .

**SPECIAL COMMITTEE ON SPECIALIZATION IN THE PRACTICE OF LAW**

Mr. Stuart Thom presented for consideration the Report of the Special Committee on Specialization in the Practice of Law of its meeting on 25th October, 1976, which had been tabled at Convocation on 21st January, 1977.

Your Committee last reported to Convocation on November 17, 1972 and at that time proposed a plan whereby members of the profession could qualify as specialists in certain areas of law. Convocation approved in principle of the recommendations contained in that report, which was then given wide circulation among the profession. In Ontario and elsewhere in Canada however there was a negative reaction and the pressure that had come from the press and other sources to qualify specialists has greatly diminished. It became clear that the need for true specialists had been over-estimated and that the profession at large could not be counted upon to give support to an elaborate program for qualifying such specialists. Since that time there has been no discernible change in the attitude of the profession in this particular aspect of the problem.

A new and strong pressure has developed however and has

been given consideration by your Committee. The Committee met on Monday, October 25, 1976 at 2:00 p.m., the following members being present: Messrs. Goodman (Chairman), Henderson, Thom, Professor A.W. Mewett and Mr. Stuart Webb. The demand is now perceived to be to provide a way for the members of the public to be able to select a lawyer who is ready and able to handle their particular problems. The difficulty is that at present lawyers are not permitted to inform the public as to the areas of law they work in and in which they are reasonably competent. Average clients are not looking for lawyers highly qualified in narrow fields, who are the true experts or specialists. They simply want to find a lawyer who is competent and in fact practises in the field where their problems lie. The Society also recognizes the desirability of enhancing competence of the practising Bar generally and its duty to provide enlarged facilities for this purpose.

Your Committee has shifted its attention to concentrate on this dual problem and in this report sets out a scheme for "accrediting" lawyers in various fields who would be permitted to inform the public through the yellow pages of the telephone book, their professional cards and letterheads, of the areas in which they practise. To give an example, your Committee's proposal is that a lawyer who practises in the field of criminal law should be able to record this fact with the Society, take refresher courses as required on a continuing basis and be accredited by the Society, which will permit him to show "Practising in Criminal Law" after his name in the yellow pages, on his card, letterhead and in other approved ways.

It is important that accreditation as proposed by your Committee be distinguished clearly from true specialization. The difference is that a specialist, properly so called, must have achieved an exceptionally high standard of legal expertness through a combination of intensive experience and outstanding ability in a narrow field of law. It must be recognized that the ordinary practitioner, though theoretically competent to practise in all fields of law when called to the Bar, very quickly loses whatever competence he has in fields in which he does not practise. In those fields where his practice does in fact lie, presumably he would maintain his competence but without necessarily becoming a specialist. He would simply give good service in the area in which he habitually practises.

Your Committee is of the view that it would be a better policy for the Society to initiate and maintain a program to accredit competent lawyers, with a view to informing the public of the areas of law in which they practise than it would be for the Society to promote a program to produce true specialists. Clearly in the public interest the need for the former is much more pressing than the latter. The standards a lawyer would be required to maintain to preserve his accreditation would be much lower than those required of a specialist. Also the areas of law should be broader and not too narrowly defined and, in particular, your Committee considers that general practice will form an area for accreditation. It is your Committee's opinion that general practice can be sufficiently clearly delineated to allow it to be recognized and your Committee considers this point to be of some importance.

Another point which your Committee considers to be of importance is that everything that can be done should be done to obviate confusion in the mind of the public between true specialization and accreditation. To this end it should be borne in mind in considering the details of your Committee's proposal that the word "accreditation" would not be used on lawyers' letterheads, but rather accreditation by the Society would simply permit the lawyer to use such words as "Practising in Family Law", "General Practice", or as the case may be. The Competition Act which came into force last summer gives impetus to your Committee's proposal. In that legislation the distinction is drawn between promotional advertising and informational advertising. It is doubtful whether in the face of the new provisions of the law rules of professional conduct can be maintained which prevent informational advertising. Your Committee believes that its proposal for a program of accreditation would meet that problem as well as achieve the central aims of affording members of the public a means of selecting a lawyer competent and willing to serve in the field where their problems lie and elevate standards of professional practice.

Your Committee suggests that if its proposal receives approval in principle by Convocation the proposal be circulated generally and the profession asked to comment on it. Having had the benefit of the profession's reactions the Committee could put its recommendations in detailed and final form for

Convocation's further consideration. In general terms therefore your Committee proposes the following:

1. Practitioners seeking accreditation would file a statement that they have engaged in practice in a particular area of law to a stipulated extent, say more than 50% for a period of time, say 3 or 5 years. General Practice accreditation would be on a similar basis but without the emphasis on a specified category of law. It is not proposed that at this time there would be any examination or investigation of the applicants' qualifications as stated to the Society.

2. To maintain accreditation in a particular area, practitioners would be required to attend a refresher course at least once in each successive two-year period following accreditation. Programs for the maintenance of accreditations would be presented in Toronto and other centres at frequent intervals, say every six months in each category, including of course the category of General Practice. The courses at the outset of the program would be of short duration, one or two days, but would be expected to become more intensive as the plan developed.

3. Examinations would not be required of those attending the refresher courses although it should not be ruled out as the plan matures that it may be found that an examination of some kind will be found to be desirable.

4. The categories in which accreditation is to be permitted should, if possible, embrace the whole range of the practice of law. Considerable care must be taken in determining the comprehensiveness of particular categories, for example, should Taxation form one category including personal and corporation income tax, customs and excise, provincial and federal sales taxes, and municipal tax, or should each of the several types of tax give rise to a specific separate category? The same question arises in many fields, for example, Real Estate or Land Law may be divided into several areas such as purchase and sale of land, valuation and assessment of land, land use and development, landlord and tenant and so on. Your Committee does not think it desirable to attempt at this stage to compile a definitive list of categories. It is expected that the profession's reaction to the general proposal would be

helpful in doing so.

5. The plan should be widely published and every effort made to explain to the public that accreditation in no way constitutes a holding out by the Society that an accredited lawyer is an expert in his field of law but that its purpose is to enable lawyers to inform the public in what areas of law they have experience and at least minimum competence and to improve standards of practice.

6. Each category of accreditation should be under the supervision of a committee of knowledgeable practitioners, not all of whom need to be Benchers. Each committee will be responsible to the Legal Education Committee but would exercise general surveillance over the qualifications of the accredited group and would be responsible under the general direction of the Legal Education Committee for the content and delivery of the refresher courses.

7. The additional costs of the accreditation program would be met by fees payable by the accredited lawyers who take the prescribed courses, the amount of the fee to be determined after projected costs have been analysed.

8. The Society's present involvement in Continuing Education programs would not be diminished and, if anything, should be enlarged. Courses on selected topics of a more intensive nature than the recurring refresher courses would continue to be provided along the lines already established.

9. Your Committee has not fully explored the question of whether its proposal would require changes in the governing legislation.

**THE REPORT WAS ADOPTED**

. . . . . .

## DISCIPLINE COMMITTEE (Continued)

**Re: VICTOR BEUBE, Toronto**

Consideration of this matter resumed after the

adjournment of twenty minutes that had been granted counsel for the solicitor.

The solicitor, counsel and the reporter returned.

Counsel for the solicitor advised that he did not wish an adjournment and then made submissions respecting penalty.

Counsel for the Society made submissions.

The solicitor, counsel and the reporter retired.

The motion for disbarment was *carried.*

. . . . . .

**COMPENSATION FUND REPORT – EMIL T. LENKO**

Mr. R. Ian Cartwright, Chairman, presented the Compensation Fund Report dated 23rd December, 1976, with respect to Emil T. Lenko, a disbarred lawyer formerly practising in Hamilton.

The Discipline Committee met formally on Tuesday, 30th November, 1976 and informally on Thursday, 2nd December, 1976, the following members being present on both occasions: Messrs. Cartwright (Chairman), and Montgomery and Ogilvie.

In advance of its first meeting your Committee carefully read the Report of the Referee, The Honourable John Aylesworth, Q.C., on the claims to the Compensation Fund arising out of the practice of Emil T. Lenko, a disbarred lawyer formerly practising in Hamilton. There were thirty-five claimants whose claims amounted to $508,593.80. The Referee held in abeyance making recommendations with respect to two of these claims totalling $54,930, (Iva Braithwaite, $52,330 and Florence DeMascio, $2,600), in view of the fact that in each case litigation was pending. The Referee will deal with these claims at a later date. The Referee completely disallowed three claims. Your Committee carefully reviewed these three disallowed claims and concurred with the Referee's recommendation with reference to the claims of Messrs. Dalton and Ritchie, but upon anxious consideration came to the conclusion that the $4,000.00 claim of Mrs. Dorothy Buzza should be allowed in full. With this one change your Committee is prepared to accept the amounts recommended by the Referee

and, subject to each claimant being accorded an opportunity to dispute the Referee's recommended amount before your Committee, your Committee accordingly may find that with the addition of Mrs. Dorothy Buzza's claim of $4,000 being allowed in full, $348,131.34 in claims have been established.

Your Committee then gave considerable thought to the matter of the discretionary limits per individual lawyer of $150,000 and per individual claimant of $25,000. Your Committee noted that there were only two claimants (George Brugos, $54,581.38 and Mrs. Diega Partito, $53,153.83) whose amounts recommended by the Referee exceeded the $25,000 limit and that there only remained one other claim (Iva Braithwaite, $52,330) to be dealt with by the Referee that also exceeded that $25,000 limit. Your Committee carefully reviewed the claims of George Brugos and Mrs. Diega Partito and concurred with the Referee's recommendation of payment to each of these two claimants of their amounts which are in excess of $25,000 each. Your Committee considered the Referee's finding:

> "Lenko's victims were, with few exceptions, people of mid-European extraction, very little education, and of modest means; the majority of them were widows, divorcees or women living apart from their husbands; his personality was such, apparently, as to engender in these people a great personal trust; the collection of payments due to them from their dealings through Lenko was left entirely to him."

and accepted this recommendation that the $150,000 limit as provided in the Guidelines be disregarded in this case. It should be noted that the Referee attributed to this recommendation his view that otherwise it would seem that the scaled down payments, which would ensue, would appear as token payments only and the objectives of the Compensation Fund would be defeated in large measure. This additional comment of the Referee becomes important in considering the next aspect of this Report.

Taking into account the amount of $348,131.34 that may be found established and the amount of the two claims totalling $54,930 under litigation the total established claims figure would, at a maximum, amount to $403,061.34. It was upon

this figure that your Committee next considered the question as to the amount of pay-out to the claimants. Your Committee considered the Minutes of a Special Convocation on June 18, 1970 wherein the former solicitor was found guilty of professional misconduct and reprimanded in Convocation, and his reprimand was published, and he was obliged to file quarterly audited statements with the Society for a period of three years. In his report the Referee reported that:

> "Under date of 30th January, 1974, the Society's investigators reported to the Committee on their examination of Lenko's books pursuant to Section 22 of the Society's Regulations; this Report revealed that in October, 1973 (immediately after the expiration of his probationary period involving former irregularities), Lenko resumed manipulation of his trust accounts; formal Complaint by the Society against Lenko was made 14th February, 1974 and Lenko was disbarred 19th September, 1974.
>
> During the seven months between Complaint and disbarment, Lenko actively engaged himself in the further bilking of clients to the total in this period of approximately $180,000, upon which I have recommended payment of approximately $154,000; these totals affect nineteen of the thirty-five claims presented to the Society."

Your Committee noted that the above quoted claims of $180,000 represented slightly less than 30% of the claims of $508,593.80 and also represented about a little more than half of the thirty-five claims. Your Committee warmly debated percentages ranging between 60% and 100% after anxiously considering the Referee's Report, the Society's previous experiences with the former solicitor and the position of the Compensation Fund at October 31st, 1976 whereby the value of the Fund was approximately $1,500,000 as opposed to potential claims in the area of $3,000,000 and unanimously proposed upon the potential established amount of $403,061.35, paying out 80% of each established claim for a total exposure of $322,449.08

**THE REPORT WAS ADOPTED**

. . . . . .

## LEGAL EDUCATION COMMITTEE–Mr. Finlayson

Mr. G. D. Finlayson, Chairman, presented the Report of the Legal Education Committee of its meeting on Thursday, 13th January, 1977.

The following members were present: Mr. G. D. Finlayson, Chairman, Mr. J. D. Ground, Vice-Chairman, and Messrs. Brulé, Kellock, Rogers, Salhany and Mrs. Tait.

**FACULTY APPOINTMENTS –**
**(Toronto, Ottawa and London, as indicated)**

It was recommended that the following appointments be made for the teaching term which commenced September 7, 1976:

*(a) Criminal Procedure Section:*

To continue as Head of the Section, R. J. Carter.

Group Instructors (Osgoode Hall): A. G. Campbell, Ian Cartwright, J. D. Crane, B. H. Greenspan, E. L. Greenspan, D. R. H. Heather, G. P. Johnstone, G. R. Kluwak, G. S. Lapkin, R. D. Manes, Morris Manning, R. M. McLeod, Howie Morton, W. J. Parker, C. M. Powell, R. E. Salhany, E. L. Schofield, M. H. Siegel, Ed Then, R. G. Thomas, M. A. Wadsworth, J. D. Watt, A. C. Whealy.

Group Instructors (Ottawa): J. C. Barnabe, John Cassells, J. A. Cogan, W. T. Green, P. F. D. McCann, C. D. A. McKinnon, L. M. Shore.

Group Instructors (London): J. N. Buchanan, Peter Gloin, M. E. Martin, N. A. Peel.

Stand-by Instructor (Ottawa): J. D. Nadelle.

Group Instructors (London): A. H. Little, J. F. McGarry, E. J. McGrath.

*(b) Estate Planning Section:*

To continue as Head of the Section, D. J. Fuller.

Group Instructors (Osgoode Hall): H. J. Alpert, W. G. Beach, D. C. E. Champagne, Mrs. N. Chaplick, Miss M. L. Dickson, L. G. Dollinger, Miss S. L. Dunbar, R. D. Finlayson, C. T. Fletcher, David Franklin, L. R. Hepburn, R. E. Jarman, J. F. Kennedy, R. L.

Kennedy, Jr., P. E. Lockie, Melville O'Donohue, T. W. Powers, M. J. Rochwerg, Miss H. L. Roszell, K. L. Saltzman, P. U. Schmidt, P. B. Shone, S. Spiro, J. M. Stewart, T. A. Sweeney, S. Taube, W. M. Traub, M. J. White.

To continue as Senior Instructor (Ottawa): J. C. Clark.

Group Instructors (Ottawa): R. W. Cleary, R. C. Gravelle, Marc Landry, P. T. McEnery, Miss E. Slasor, R. C. Thomas, A. R. Winship.

Group Instructors (London): E. R. Browne, D. A. Cromarty, J. G. Kerr, P. H. E. Schwartz.

Stand-by Instructor (Osgoode Hall): E. Burnstein.

Stand-by Instructor (Ottawa): H. T. McGovern.

Stand-by Instructors (London): E. L. Elwood, Miss L. D. Fowler.

*(c) Criminal Procedure Section:*

Senior Instructor (London): Edward Richmond, in place of W. R. Poole, who resigned.

*Approved*

**BAR ADMISSION COURSE – SPECIAL EXAMINATIONS**

The numbers of students who did not write the regular examinations and who are therefore required to write special examinations in the various sections of the Bar Admission Course to date are as follows:

| | | |
|---|---|---|
| Real Estate and Landlord & Tenant | – 2 | (both in Toronto) |
| Income Tax | – 3 | (1 Toronto, 1 Ottawa, 1 London) |
| Civil Procedure I | – 5 | (all in Toronto) |
| Corporate and Commercial | – 2 | (1 Toronto, 1 London) |
| Family Law | – 6 | (3 Toronto, 1 Ottawa, 2 London) |

This item was on the November agenda and put over to January for further data and report. It was recommended that the special examinations in the 18th Bar Admission Course be written in the week commencing Monday, February 28th, and that candidates writing special examinations be included in the regular Call to the Bar on successful completion of the course.

*Approved*

**TORONTO BAR ADMISSION COURSE ADVISORY COMMITTEE**

The Toronto Bar Admission Course Advisory Committee met on December 6th, 1976. A copy of the minutes of that meeting were before the Committee.

The Committee recommended this matter be referred to the Sub-Committee to Review the Bar Admission Course.

**OTTAWA BAR ADMISSION COURSE ADVISORY COMMITTEE**

A meeting of the Ottawa Bar Admission Course Advisory Committee was held in Ottawa on December 7th, 1976. Minutes of the meeting prepared by the student representatives, together with a copy of a letter dated January 6th, 1977 written by the student representatives to the Chairman and a copy of a petition referred to in that letter, were before the Committee.

The Committee recommended this matter be referred to the Sub-Committee to Review the Bar Admission Course.

**BAR ADMISSION COURSE, ARTICLING TERM – DAVID STORRY**

The Committee had before it two letters dated October 20th and November 25th, 1976, written to the Chairman by Mr. David Storry, a student in the London branch of the Bar Admission Course teaching term, together with a copy of the Chairman's letter dated November 4th, 1976, to Mr. Storry. The results of the questionnaire referred to in the Chairman's letter are not yet available. The Director was advised that the responses to the questionnaire are being computerized and the results will be made available. These letters were brought forward for the information of the Committee and it is recommended that they be referred to the Sub-Committee on the future of the Bar Admission Course.

The Committee recommended the student handbook to be sent to all principals, and also an amended and expanded letter from the Director covering more explicitly the principal's duties.

## BAR ADMISSION COURSE AND CONTINUING EDUCATION

The Committee dealt with five petitions and two enquiries of a routine nature; considered financial statements for the Bar Admission Course; and reviewed a statement setting out the Continuing Education programmes presented during the months of November and December, 1976 and the publications report for the months of November and December, 1976.

## STUDY OF NEED FOR LEGAL EDUCATION AND LAW TRAINED GRADUATES

A letter dated 11th November, 1976, from Mr. Shibley to the Chairman was before the Committee. Mr. Shibley suggested a study be undertaken of the demand for access to legal education and for law trained graduates and that professional analysts be engaged for this purpose at the Society's expense.

The Committee recommended this matter be referred to the Admissions Committee with the endorsement of this Committee.

## MEETING WITH THE DEANS OF THE ONTARIO APPROVED LAW SCHOOLS

This Committee, with the Vice-Chairman of the Admissions Committee, the Chairman of the Special Committee on Specialization in the Practice of Law and the Director of the Ontario Legal Aid Plan, met with the Deans of the approved Law Schools in Ontario on December 15, 1976. The following subjects were discussed:

The availability of articling positions,
The numbers entering the profession,
The question of the required academic subjects,
Specialization,
Legal Aid.

A copy of the Secretary's rough notes of the meeting was before the Committee.

The Committee recommended that the meeting with the Deans be held annually.

**HIGH SCHOOL TEACHERS SEMINAR**

Mr. *Philip M. Epstein,* of the firm Strauss & Strauss, asked the Society's co-operation in providing a seminar room and luncheon on 25th February, 1977 for approximately 25 people, to permit a one day program on Family Law for high school teachers who teach law to high school students.

The Committee recommended approval subject to approval of Finance Committee.

**THE REPORT WAS ADOPTED**

. . . . . .

## FINANCE COMMITTEE–Mr. Pallett

Mr. J. C. Pallett, Chairman, presented the Report of the Finance Committee of its meeting on Thursday, 13th January, 1977.

The following members were present: Messrs. Pallett (Chairman), Brulé, Farquharson, Fennell, Ground and Pepper.

**APPOINTMENT OF VICE–CHAIRMAN**

It was moved in Committee and seconded that Mr. Brulé be appointed Vice-Chairman of the Committee.

*Carried*

**ROLLS AND RECORDS**

*Appointments to the Bench*

The following members have been honoured by their appointments to judicial office and their membership in the Society will be placed in abeyance upon their assuming office:

| | |
|---|---|
| William Alexander Pearce<br>Toronto | Called – 22 March 1968<br>Appointed Magistrate, Yukon Territory – 1 October 1976 |
| Dougald Robert McDermid<br>Niagara Falls | Called – 10 April 1964<br>Appointed County Court Judge, Elgin County – 28 October 1976 |

| | |
|---|---|
| Jean Adrien Forget<br>Cornwall | Called – 7 April 1961<br>Appointed County Court Judge, County & District of Sudbury – 4 November 1976 |
| John Bamber Allen, Q.C.<br>Toronto | Called – 21 June 1951<br>Appointed Provincial Judge, Family Division, Judicial District of York – 23 December 1976 |
| Hugh Edward Zimmerman, Q.C.<br>Toronto | Called – 15 September 1955<br>Appointed Provincial Judge, Criminal Division, Judicial District of York – 23 December 1976 |
| John Dale O'Flynn, Jr., Q.C.<br>Belleville | Called – 20 September 1956<br>Appointed County Court Judge, Prince Edward County – 28 October 1976 |

## *Appointment to the Tax Review Board*

| | |
|---|---|
| Francis Joseph Dubrule, Q.C.<br>Ottawa | Called – 29 June 1948<br>Appointed a Member of the Tax Review Board – 1 June 1976 |

The following members have died:

| | |
|---|---|
| Frank Edward Breen, Q.C.<br>Toronto<br>(Life Member) | Called – 21 October 1920<br>Deceased – 11 November 1976 |
| Miss Rosemary Edith Hodgins<br>Toronto | Called – 25 June 1959<br>Deceased – 5 November 1976 |
| Bernard Arnold Russell Taylor<br>Atikokan | Called – 16 September 1948<br>Deceased – 8 November 1976 |
| Reginald Sydney Walter Fordham, Q.C.<br>Ottawa<br>(Life Member) | Called – 20 October 1921<br>Deceased – 17 November 1976 |
| Norman Lyle Booth, Q.C.<br>Orillia | Called – 28 June 1956<br>Deceased – 15 November 1976 |
| The Hon. Wilfrid D. Roach<br>Don Mills<br>(Life Member) | Called – 18 May 1916<br>Deceased – 21 November 1976 |
| Joseph Lucius Gabriel Keogh, Q.C.<br>St. Catharines | Called – 16 June 1927<br>Deceased – 23 November 1976 |
| Francis Gordon Cook, Q.C.<br>Toronto<br>(Life Member) | Called – 15 June 1922<br>Deceased – 26 November 1976 |
| Harvey Ralph Daiter, Q.C.<br>Toronto | Called – 23 June 1955<br>Deceased – 19 December 1976 |
| Garth William Kerr Macdonald, Q.C.<br>Toronto | Called – 16 June 1938<br>Deceased – 2 November 1976 |

| | |
|---|---|
| Alfred Morris Wootton, Q.C.<br>Whitby<br>(Life Member) | Called – 19 November 1925<br>Deceased – 16 December 1976 |
| James Harold Smyth, Q.C.<br>Kitchener<br>(Life Member) | Called – 13 September 1923<br>Deceased – 5 December 1976 |
| John Grant McNeil<br>London | Called – 20 June 1940<br>Deceased – 30 October 1976 |
| Murton Adams Seymour, Q.C.<br>St. Catharines<br>(Life Member, Bencher Ex Officio) | Called – 16 October 1919<br>Deceased – 27 December 1976 |
| Lawrence Kert, Q.C.<br>Toronto<br>(Life Member) | Called – 20 May 1920<br>Deceased – 21 December 1976 |
| Francis Mark Kelly, Q.C.<br>Toronto | Called – 24 November 1927<br>Deceased – 29 December 1976 |
| Solly Gebirtig, Q.C.<br>Toronto | Called – 20 September 1928<br>Deceased – 31 December 1976 |

It was moved in Committee, seconded and *carried* that the practice be revived of citations respecting deceased Benchers being read to Convocation and communicated to the deceased's family.

*Disbarments*

The following former members have been disbarred and struck off the Rolls and their names have been removed from the Rolls and Records of the Society:

| | |
|---|---|
| Eric Samuel Colbert<br>Sarnia | Called – 16 September 1954<br>Disbarred – Convocation<br>2 December 1976 |
| William Alfred Stevens<br>Sudbury | Called – 24 June 1954<br>Disbarred – Convocation<br>2 December 1976 |

*Noted*

**MEMBERSHIP RESTORED**

His Honour Judge *Dennis Rory O'Connor* gave notice under section 31 of The Law Society Act that he had resigned as a Provincial Judge for the Yukon Territory and wished to be restored to the Rolls of the Law Society. Accordingly, his membership was restored effective 22nd November, 1976.

*Noted*

## MEMBERSHIP UNDER RULE 50 – RETIRED MEMBERS

The following members who are sixty five years of age or over and who are fully retired from the practice of law and other employment requested permission to continue their membership in the Society at a reduced annual fee of $25:

| | | |
|---|---|---|
| Robert Earl Agnew, Q.C. | – | Toronto |
| Wallace Bruce Duncan, Q.C. | – | Hamilton |
| Frederick Gerald Fitzgerald | – | Toronto |
| John Williamson Hamilton | – | Willowdale |
| John Munroe Harris, Q.C. | – | Bracebridge |
| Jacob Low, Q.C. | – | Peterborough |
| John Edward McKeon, Q.C. | – | Harrow |
| Joseph Rabinovitch | – | Richmond Hill |
| Maxwell Franklin Reycraft | – | Scarborough |
| George William Robinette, Q.C. | – | Toronto |
| John William Sheppard | – | Simcoe |
| Edward Lloyd Sparling, Q.C. | – | Peterborough |
| Dougald Herman Sutherland | – | Clarksburg |
| Gordon Dorward deSalaberry Wotherspoon, Q.C. | – | Ottawa |
| Charles Kenneth Freeman Waugh | – | Ottawa |
| Irving Weinert | – | Toronto |

*Approved*

## RESIGNATIONS

The following members applied for permission to resign their membership in the Society and submitted their Statutory Declarations in support with a request that they be relieved of the requirement of publication in the Ontario Reports. Neither member has paid his fees for 1976–77.

| | | |
|---|---|---|
| Samuel H. Margolian, Q.C. | – | Toronto |
| Archibald Malloch Laidlaw, Q.C. | – | Ottawa |

*Approved*

## CHANGE OF NAME

*Tamarin Melda Sagel,* a solicitor practising in Toronto, requested that her name be changed on the Rolls of the Society to Tamarin Melda *Dunnet* Sagel, thus including her maiden

name.

*Approved*

**REQUEST FOR LIFE MEMBERSHIP**

Mr. *Britton Bath Osler* who practises in Toronto submitted that he is entitled to life membership in the Society. The Notice of Fees Due for 1976–77 bears the following notation:

> "Those who have maintained their membership in the Society for 50 years or more are Life Members and are not required to pay Annual Fees. Life Members are requested to complete the application for Annual Certificate and return it to the Secretary so that the Society's records are kept up to date."

Mr. Osler submitted that when he became a student member of the Society in June 1926 and entered into Articles, the category of student member did not exist so that he was admitted then to the only category of membership there was. He developed this position in a letter dated 7th December, 1976, which was before the Committee.

The Committee's attention was drawn to the fact that the wording which appears on the Notice of Fees does not conform with the wording of Rule 49 (1) and (2) which is as follows:

> "**49**.–(1) Every member of the Society who has been entitled to practise in Ontario as a barrister or a solicitor or as a barrister and solicitor for fifty or more years becomes *ipso facto* a life member of the Society and as such is not liable to pay any fees, levies or assessments to the Society other than the levy prescribed for the Society's Errors and Omissions Insurance Plan in respect of a life member who is covered by the Plan.
>
> (2) Where membership or student membership in the Society has been interrupted by a period of war service or service on the bench, such period may be counted in determining eligibility for life membership."

The Committee recommended that Mr. Osler be advised that he does not yet qualify for Life Membership.

**REQUEST FOR MEMBERSHIP IN ABEYANCE**

Mr. *David Morgan Duncan,* Q.C., Chairman of the Ontario Telephone Service Commission, asked to have his membership in the Society placed in abeyance on the ground that his position is directly analogous to the position of a member who has been appointed to the Bench. The correspondence was before the Committee.

Also before the Committee was the opinion of The Right Honourable John R. Cartwright, Q.C., dated 6th December, 1972, to the effect that members of the Income Tax Appeal Board should be considered as being in the position of a judge within the meaning of that word as used in clause (a) of section 31 of The Law Society Act.

The Committee recommended that Mr. Duncan's request be *denied.*

**REFUND OF FEES**

Miss *Linda Sales* was granted permission by Convocation to withdraw from the current teaching term cf the Bar Admission Course. She officially withdrew on the 1st of October 1976. The Committee was asked to approve the refund of part of her tuition fees in the amount of $370.

Mr. *Bruce Perreault* and Miss *Linda Roulet* have withdrawn from the current teaching term of the Bar Admission Course. Mr. Perreault withdrew as of 17th December, 1976, and Miss Roulet's last day of attendance was 16th December, 1976. The Committee was asked to approve the refund of part of their tuition fees in the amount of $150 each.

*Approved*

**BUILDING EXTENSION AND RENOVATION**

The Society's Architect rendered his second account in connection with the building reconstruction and renovation. This account is based on 10% of the original estimate of $1,797,190. The Architect's work has progressed to the point where 62.5% of the basic fee is due for payment. This amounts to $112,324.37, of which $40,000 was approved on March 11th, 1976, leaving a balance of $72,324.37. The Chairman approved payment of the balance in December and requested

ratification of this approval by the Committee.

*Approved*

**LIBRARIES AND REPORTING COMMITTEE**

The following item was on the agenda of the Libraries and Reporting Committee at their meeting on January 13th, 1977:

**Law Society Renovations**

Because of renovations to the east side of the building the Great Library has found it necessary to store books in Room B80, one of its basement storage rooms. These books were formerly housed in the Bar Admission Course Library quarters. The shelving in this room is inadequate for proper storage of books and is an assembly of various old sets of shelving available in the building. Mr. Arthur Heeney, the Law Society's Architect, obtained a quotation of $1,700.40 from The Empire Office Equipment Limited to provide acceptable permanent metal shelving for this storage room, as follows:

| | | |
|---|---|---|
| 12 ft. long | – | single row 9 x 36 shelves |
| 6 ft. long | – | 3 sections – back to back |
| Either open or closed bases with steel ends installed | | $1,700.40 |

Permission was requested to obtain the shelving noted above, subject to the approval of the Finance Committee.

*Approved*

**OSGOODE HALL FENCE**

The Society's Architect has advised that winter conditions have necessitated the discontinuation of work on the fence.

*Noted*

**TREES**

A letter from Cedarvale Trees Services Limited recommended the expenditure of $4,006 in connection with pruning and other maintenance work on the trees in the Society's grounds at Osgoode Hall.

The trees were last pruned by Cedarvale in February 1975 and cables were installed where necessary at a cost of $2,600,

which was approved by the Finance Committee.

It is suggested that Cedarvale be engaged to carry out an annual inspection of the trees. At present this is done once in two years.

*Approved*

**USE OF PREMISES BY OUTSIDE ORGANIZATIONS**

*Toronto Articling Students Caucus 1976*

A request was received from the *Toronto Articling Students Caucus 1976* for the use of a meeting room in Osgoode Hall on a weekly basis, alternating one weekly meeting at 6:00 p.m. and the next weekly meeting from 12:30 to 1:30 p.m. Sufficient space was requested to accommodate 20 persons.

Space could be made available for the 6:00 p.m. meeting if the Committee approved but space was not available for the 12:30 to 1:30 p.m. meeting.

If approved, the Committee was also asked whether a fee would be charged.

The Committee recommended that this request be *denied*.

*High School Teachers Seminar.*

Mr. Philip M. Epstein of the firm of Strauss & Strauss asked the Society's co-operation in providing a seminar room and luncheon on 25th February, 1977, for approximately 25 people, to permit a one day programme on Family Law for high school teachers who teach law to high school students.

This was approved by the Legal Education Committee subject to the approval of the Finance Committee.

*Approved*

**THE REPORT WAS ADOPTED**

. . . . . .

**SPECIAL COMMITTEE ON J. SHIRLEY DENISON BEQUEST**

Mr. G. H. Lochead presented the Report of the Special Committee on J. Shirley Denison Bequest of its meeting on Thursday, 13th January, 1977.

The following members were present: Messrs. Sheard (Chairman), Cass and Pepper.

**APPLICATIONS**

The Committee considered two applications for grants and, after reviewing information respecting the present financial position of each of the applicants, recommended that grants be made.

**STUDENT APPLICATIONS**

The Committee had before it for consideration 21 applications from students for grants and a memorandum of recommendations from the Assistant Director of the Bar Admission Course. The Committee recommended payment of grants to five applicants.

**THE REPORT WAS ADOPTED**

. . . . . .

Read in Convocation and confirmed 18th March, 1977.

W. Gibson Gray
Treasurer

THE LAW SOCIETY OF UPPER CANADA

# Minutes of Convocation

Volume 1 Number 10

# MINUTES OF CONVOCATION
## (ABRIDGED)

Friday, 18th February, 1977
10:00 a.m.

**PRESENT:**

The Treasurer (Mr. W. Gibson Gray) and Messrs. Bowlby, Brulé, Carrier, Carnwath, Carter, Carthy, Cartwright, Cass, Chadwick, Common, Cooper, Farquharson, Finlayson, Furlong, R. J. S. Gray, Ground, Henderson, Mrs. Legge, Messrs. Linden, Lochead, Montgomery, O'Brien, Ogilvie, Pepper, Rogers, Seagram, Sheard, Strauss, Mesdames Sutherland and Tait, Messrs. Thom, Tobias, White, Williston, Willoughby and Zahoruk.

. . . . . .

**MINUTES**

The Minutes of Convocation of 21st January, 1977 were read and confirmed.

. . . . . .

## DISCIPLINE COMMITTEE–Mr. Lochead

### Re: A Solicitor

Mr. G. H. Lochead, Chairman, placed the matter before Convocation.

The reporter was sworn.

Messrs. Willoughby, Furlong, Mrs. Legge and Mr. Ogilvie who were the Chairman and members respectively of the Discipline Committee that heard the matter withdrew from Convocation.

The solicitor attended with his counsel, Mr. Ian G. Scott, Q.C. The Society was represented by Mr. S. E. Traviss.

This was an appeal by the solicitor from the finding of the Discipline Committee that the solicitor was guilty of

professional misconduct and its decision that he should be reprimanded in Committee. The reading of the Decision of the Discipline Committee dated 12th November, 1976, was waived by counsel. The Committee found that the solicitor was guilty of professional misconduct in that he had failed to honour a personal undertaking given as solicitor for the vendor in a real estate transaction.

Convocation had before it in addition to the Decision of the Discipline Committee copies of the Notice of Motion filed on behalf of the solicitor, the transcript of the evidence adduced before the Discipline Committee on 18th August, 1976, and the relevant exhibits.

Counsel for the appellant made submissions. Counsel for the respondent made no submissions.

The appellant, counsel and the reporter retired.

It was moved, seconded and *lost* that the appeal be allowed.

It was moved and seconded (i) that the appeal be denied and (ii) that the solicitor be reprimanded in Convocation.

The first part of the motion was *carried*.

The appellant, counsel and the reporter returned.

The appellant and counsel were advised that Convocation had dismissed the appeal.

Counsel's attention was drawn to subsection (3) of Section 39 which states:

> "(3) Upon the hearing of an appeal under this section, Convocation may vary the punishment imposed by the Committee or may refer the matter or any part thereof back to a Committee with such directions as it considers proper or may make such order as it considers proper in the circumstances."

and the motion before Convocation respecting penalty was read. Counsel for the appellant was given the opportunity to have the matter adjourned to prepare himself to meet this new circumstance.

The solicitor, counsel and the reporter withdrew.

. . . . . .

## LIBRARIES AND REPORTING COMMITTEE–Mr. Seagram

Mr. R. Ian Cartwright withdrew from Convocation prior to the presentation of the Reports of the Libraries and Reporting Committee, took no part in Convocation's deliberations in that regard and did not vote.

Mr. C. J. Seagram, Chairman, presented the Report of the Libraries and Reporting Committee of its meeting on Thursday, 13th January, 1977.

The following members were present: Messrs. Seagram (Chairman), Farquharson, Rogers, Salhany, Strauss, Mrs. Tait and Mr. Wallace, and Miss A. R. McCormick.

## GREAT LIBRARY

### GIFTS AND DONATIONS

The following donations to the Great Library have been received:

| | |
|---|---|
| James R. Braden, Barrister and Solicitor, Toronto | 2 volumes of the Statues of Ontario |
| Miss Mary A. Laughrin, Toronto | 1 volume: Babington, Anthony, A House in Bow Street: Crime and the Magistracy, London, 1740-1881. London, Macdonald [c1969] |
| J. M. Martin, Long Sault | 4 volumes of texts and statutes of the Province of Quebec. |

*Noted*

### LAW SOCIETY RENOVATIONS

The Committee recommended approval, subject to the approval of the Finance Committee, of the quotation obtained by Mr. Arthur Heeney in the amount of $1,700 for permanent metal shelving in Room B80, one of the basement storage rooms of the Great Library, for the proper storage of books now in the Bar Admission Course Library quarters.

### BOOK LIST

A list of books recently purchased was submitted for approval. It was requested that when there is a purchase which

the Chief Librarian knows will require an expenditure for an annual supplement, she will indicate this on the book list by putting an asterisk beside the name of the book.

*Approved*

**BARRISTERS' LIBRARY –**
**145 QUEEN STREET WEST**

The Secretary was instructed to talk to Mr. Heeney about the engineer's report concerning the necessity of an air conditioner-humidifier at the above library. The Chief Librarian was requested to make a report on the necessity of protecting the books at the above library.

**DISPOSAL OF BOOKS**

The Committee recommended that a set of incomplete *Revised Reports* and an incomplete set of *English Law Reports* be sold to Oceania Publications Inc. for $1,500 cash.

## COUNTY LAW LIBRARIES

**CENTRAL ADMINISTRATIVE PROGRAMME**

The Committee recommended that the grant of $240,000 to the Law Society by The Law Foundation of Ontario plus a grant of $10,000 for the Hamilton Law Association be referred to the Sub-Committee on Grants chaired by Mr. Salhany for a recommendation as to how the funds are to be spent.

**MIDDLESEX LAW ASSOCIATION**

The Committee recommended that the Secretary be instructed to write to the Middlesex Law Association and state the following policy of the Law Society:

(1) The Law Society has no objection to the Middlesex Law Association applying to the R. G. Ivey Foundation for a grant and in the event that the Law Association can qualify with the conditions laid down by the Foundation the annual grant from the Law Society or from the Foundation of Ontario would not be affected.

(2) The Law Society would have no objection to the Law

Association's application for registration with the Department of National Revenue as a charity which would enable it to issue receipts valid for income tax purposes.

(3) The Law Society encourages gifts and donations to County and District Law Libraries.

## REPORTING

### CANADA LAW BOOK LIMITED – CONTRACT – DELAY IN PUBLICATION OF REASONS FOR JUDGMENT

The Secretary was instructed to refer two letters regarding the above matter to the Sub-Committee investigating the delay in printing of Reasons for Judgment in the Ontario Reports.

**THE REPORT WAS ADOPTED**

. . . . . .

Mr. Seagram presented the Report of the Libraries and Reporting Committee of its meeting on Thursday, 10th February, 1977.

The following members were present: Messrs. Seagram (Chairman), Chappell, Farquharson, Rogers, Strauss and Wallace, and Miss A. R. McCormick.

## GREAT LIBRARY

### GIFTS AND DONATIONS

The following donations to the Great Library have been received:

| | |
|---|---|
| Messrs. MacDonald & Ferrier, Barristers and Solicitors, Toronto | Three texts as follows:<br>Barber, M.P. *Landlord and tenant in a nutshell.* London, Sweet & Maxwell, 1966<br>Canadian Bar Association. Ontario Branch.<br>Family Law Subsection. *The evolution of the family court in Ontario, past and future;* a joint seminar of the Association |

of Provincial Court (Family Division) Judges and the Family Law Subsection... [Toronto, 1972]

Williams, G. L. *Criminal Law: the general part.* [1st ed] London, Stevens, 1953.

*Noted*

**CANADIAN ASSOCIATION OF LAW LIBRARIES – ANNUAL CONVENTION**

The Chief Librarian requested permission to attend, with one assistant librarian, the Annual Convention of the Canadian Association of Law Libraries, which will take place in Halifax, Nova Scotia, May 25-27, 1977. The Committee approved of the Chief Librarian's request.

**BARRISTERS' LIBRARY – 145 QUEEN STREET WEST**

The Chief Librarian submitted a report which indicated that both the barristers and a number of the staff at the above library found the dry air and warm temperatures uncomfortable. The Secretary was instructed to obtain a letter from the Society's Architect, Mr. Heeney, interpreting the engineer's report of heating and humidity readings so the matter of purchasing an air conditioner-humidifier can again be put before Convocation.

## COUNTY LAW LIBRARIES

**ANNUAL GRANTS**

The Association listed below has sent in its Annual Returns for the year 1976. The amount of the grant which it should receive under the Regulations in 1977 and that which it received in 1976 are as follows:

| | *1976* | *1977* |
|---|---|---|
| Bruce | $1,600.00 | $1,670.00 |

The Committee recommended approval of the grant, subject to the approval of the Finance Committee.

**CENTRAL ADMINISTRATIVE PROGRAMME**

The Committee considered the Minutes of the Sub-Committee on County Law Library Grants dated January 21, 1977, which recommended an allocation of the $240,000 received from The Law Foundation of Ontario to each of the county and district law libraries.

After a lengthy discussion concerning the amount of fees paid by each of the county and district law associations, the formula under the Regulations for calculating the annual grant to the county law libraries, an explanation of how the money received from the Law Foundation is allocated and the possibility of referring the matter of a new formula for calculating grants back to the Sub-Committee on County Law Library Grants, the Committee recommended that the report be approved as amended by the Chief Librarian, subject to the approval of the Finance Committee.

**HAMILTON LAW ASSOCIATION**

The Secretary submitted two letters from the Hamilton Law Association dated November 29, 1976 and February 8, 1977, requesting money from the Law Society and the Law Foundation.

The Committee recommended that the Secretary reply to the February 8th letter explaining the amount that Hamilton has been allocated by the Law Society and by The Law Foundation of Ontario.

## REPORTING

**CANADA LAW BOOK LIMITED – CONTRACT – DELAY IN PUBLICATION OF REASONS FOR JUDGMENT**

The Secretary reported that at the last meeting of the Sub-Committee investigating the delay in printing the Reasons for Judgment in the Ontario Reports on Thursday, January 20, 1977, it was recommended that an item be placed in the Communiqué advising that a questionnaire will be distributed in the near future. The Committee recommended that

Convocation authorize the drafting of a questionnaire and that it be sent to each of the members of the profession.

**THE REPORT WAS ADOPTED**

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## DISCIPLINE COMMITTEE (Continued)

### Re: A Solicitor

Convocation resumed its consideration of this matter.

The solicitor, counsel and the reporter returned.

Mr. Cass withdrew from Convocation and took no further part in the matter.

Counsel for the solicitor was prepared to proceed. He made submissions with respect to the motion regarding penalty before Convocation. The solicitor, counsel and the reporter retired.

The mover of the motion respecting penalty, with the permission of the seconder, withdrew the motion.

The solicitor, counsel and the reporter returned.

The solicitor and counsel were advised of the disposition of the motion before Convocation and that the matter was therefore remitted to the Discipline Committee to be concluded.

The solicitor, counsel and the reporter retired.

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## UNAUTHORIZED PRACTICE COMMITTEE–Mr. White

Mr. J. G. M. White, Chairman, presented the Report of the Unauthorized Practice Committee of its meeting on Thursday, 13th January, 1977.

The following members were present: Messrs. White (Chairman), Cass, Furlong, Mrs. Legge, Messrs. Seagram, Strauss and Tobias.

1. The Committee recommended that the accounts of several counsel retained by the Law Society be approved as submitted.

2. The Secretary reported that it was necessary in a matter under investigation for the Society to change counsel due to a conflict of interest and the Secretary was instructed to retain new counsel to proceed with the matter and to report to the Committee.

3. The Committee received two letters complaining about an individual and a firm of consultants which indicated that this individual was holding himself out as a barrister and solicitor. In view of information previously forwarded to the Society in this regard, the Committee recommended that counsel be retained to conduct a prosecution under Section 50 of The Law Society Act.

4. The Secretary reported that he had received a letter from His Honour Judge G. M. Thomson, a Provincial Court Judge (Family Division) of Kingston, outlining the Frontenac Family Referral Service and requesting the opinion of the Committee on all of the relevant material which is used by the service.

The Committee recommended that His Honour Judge Thomson be advised by the Secretary as follows:

(a) The material which was enclosed with the Judge's letter is interesting but of a general nature and the Committee usually deals with specific details.

(b) The Committee appreciates that the nature of the family referral service is laudable in its purpose but one item that occurred to the Committee was that a spouse might give information to a social worker in an interview and might not realize that there may not be legal privilege attached to that information.

5. The Secretary reported that he had received a letter from John W. Cram, President of the Middlesex Law Association, enclosing a do-it-yourself Will kit together with an advertisement which appeared in a London newspaper concerning the service.

The Secretary was instructed to speak to Mr. Cram and

retain counsel in London to investigate the advertiser and, if there is sufficient evidence, to prosecute under Section 50 of The Law Society Act.

6. The Secretary reported that he had received a letter from a Windsor solicitor, requesting that the Society investigate a bookkeeping service company which is operated by an individual. The Secretary was instructed to forward the solicitor's letter together with the enclosure from the individual in question to counsel in Windsor for an investigation and a report as to whether there is sufficient evidence for a prosecution under Section 50 of The Law Society Act.

7. The Secretary reported that he had received a letter from a Thorold solicitor regarding a land conveyancer. The Secretary was instructed to send a brief of the decided cases to the solicitor and indicate that there appears to be no evidence of unauthorized practice and that if he has further evidence to produce to the Committee, it will be considered.

**THE REPORT WAS ADOPTED**

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Mr. White presented the Report of the Unauthorized Practice Committee of its meeting on Thursday, 10th February, 1977.

The following members were present: Messrs. Fennell (Acting Chairman), Cass, Mrs. Legge, Messrs. Seagram and Strauss.

1. The Committee dealt with a number of routine matters and referred one case to counsel for investigation and, if there is sufficient evidence, for a prosecution under Section 50 of The Law Society Act.

**THE REPORT WAS RECEIVED**

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## PUBLIC RELATIONS COMMITTEE–Mr. Wallace

Mr. P. B. Tobias presented the Report of the Public Relations Committee of its meeting on Thursday, 13th January, 1977.

The following members were present: Mr. Wallace, Chairman, Mr. Lochead, Mrs. Tait and Mr. Tobias.

### PAMPHLETS

It was recommended by the Committee in September and approved by Convocation that three pamphlets on aspects of lawyers' services be drafted by Mr. Tobias for distribution to the public through lawyers' offices; that these drafts be brought to the Committee and a recommendation to Convocation be made at that time.

The matter was again before the Committee.

The Committee has seen a preliminary draft of a pamphlet for distribution through lawyers' offices and will bring a finished draft to Convocation for approval next month.

### LAWYER REFERRAL SERVICE

At Convocation on October 15th, 1976, it was moved, seconded and *carried* that this matter be approved in principle and referred to this Committee for consideration of its implementation and further report.

It is again before the Committee.

The Committee recommended that the extension of the Lawyer Referral Service to new areas should be undertaken only with the concurrence of the appropriate local Law Associations; that details of the service should be explained to the members (with the exception of York, Carleton and Middlesex Counties and those members not practising) in an Occasional Report and that the extension of the service, either piecemeal or throughout the Province, be discussed with representatives of the local Associations.

The Committee recommended that a meeting be arranged with the County and District Law Associations and that perhaps other matters could be discussed at such a meeting. Also, that

arrangements be made to visit those areas which cannot send a representative to such a meeting.

**THE REPORT WAS ADOPTED**

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**SPECIAL COMMITTEE ON CONVOCATION AND ELECTION OF BENCHERS**

Mr. W. B. Common, Chairman, tabled the Report of the Special Committee on Convocation and Election of Benchers.

Convocation deferred consideration of the Report to a later date.

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**SPECIAL COMMITTEE ON J. SHIRLEY DENISON BEQUEST**

Mr. Terence Sheard, Chairman, presented the Report of the Special Committee on J. Shirley Denison Bequest of its meeting on Thursday, 10th February, 1977.

The following members were present: Messrs. Sheard (Chairman), Cass and Montgomery.

**APPLICATION**

The Committee considered and recommended approval of one application for a grant.

**STUDENT APPLICATIONS**

Applications for grants were received from three students. Two memoranda from the Assistant Director for the Bar Admission Course with respect to these applications were also received.

The Committee recommended that two grants be made.

**THE REPORT WAS ADOPTED**

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## LEGAL EDUCATION COMMITTEE–Mr. Finlayson

Mr. G. D. Finlayson, Chairman, presented the Report of the Legal Education Committee of its meeting on Thursday, 10th February, 1977.

The following members were present: Mr. G. D. Finlayson, Chairman, and Messrs. Brulé, Ground and Rogers.

**BAR ADMISSION COURSE –**
**DATE FOR FILING APPLICATIONS**
**OF STUDENT MEMBERS,**
**RULE 50 and REGULATION 26 (7)**

Regulation 26 (7) provides that an applicant for admission as a student member in the Bar Admission Course shall file a completed application and supporting documents on or before the fourth Friday in the month of July and Rule 50 provides for a fee of $101, upon becoming a student member of the Society, payable upon filing application on or before the fourth Friday in the month of July. Rule 50 further provides that in case an application for admission is filed late, an additional fee of $10 is payable for the first day and $1 for each day thereafter, to a maximum of $100. The said final day for filing applications and payment of the fee has been unenforceable in practice because a student is required to file articles of clerkship with his or her application and in many instances articling arrangements are not made until the end of August. In practice, therefore, the end of August has for some years been treated as the final day for filing applications and payment of the fee, although the regulation and the rule have not been so amended. It is recommended that the regulation and the rule be so amended to provide that applications be filed and the fee paid on or before the 31st day of August to bring these provisions in keeping with the permissible period of articles under Regulation 27 (4)(a).

*Approved*

**BAR ADMISSION COURSE –**
**ANNUAL MEETING OF HEADS OF SECTIONS**

It is proposed that the Annual Meeting of Heads of Section be held in Convocation Room on Wednesday, April 6th, 1977, at 4:00 p.m. and that the Annual Dinner of Heads of Section be held thereafter.

*Approved*

**BAR ADMISSION COURSE –**
**ANNUAL MEETING OF SENIOR INSTRUCTORS,**
**OTTAWA AND LONDON**

It is proposed that the Annual Meeting of Senior Instructors of the Bar Admission Course in Ottawa be held on Thursday, March 24th, 1977, at 4:00 p.m. in Ottawa and that the Annual Dinner of Senior Instructors be held following the meeting.

It is further proposed that the first Annual Meeting of Senior Instructors of the Bar Admission Course in London be held on Monday, April 4th, 1977, at 4:00 p.m. and that a dinner for the London Senior Instructors be held following the meeting.

*Approved*

**LONDON BAR ADMISSION COURSE**
**ADVISORY COMMITTEE**

A meeting of the London Bar Admission Course Advisory Committee was held in London on January 19th, 1977. A report received from the student representatives on the London Committee was before the Committee.

The Committee recommended the report be accepted and be referred to the Sub-Committee to Review the Bar Admission Course.

**BAR ADMISSION COURSE, TORONTO –**
**POST–EXAMINATION USE OF CAFETERIA**

The students in the teaching term of the Bar Admission Course at Toronto requested permission to use the cafeteria following the final examination in the Course for and during the afternoon of Friday, February 18th, 1977, and to serve beer in

the cafeteria on this occasion.

The Committee recommended the request be *denied*.

**BAR ADMISSION COURSE AND CONTINUING EDUCATION**

The Committee dealt with three petitions of a routine nature; considered financial statements for the Bar Admission Course and Continuing Education; and reviewed a statement setting out the Continuing Education programmes presented during the month of January 1977 and extended courses in Criminal Law to be presented during the summer on behalf of the Federation of Law Societies of Canada, and the publications report for the month of January 1977.

**BAR ADMISSION COURSE –**
**EXAMINATION IN ESTATE PLANNING**
**AND ADMINISTRATION OF ESTATES**

Consequent upon an inadvertent disclosure of part of the contents of the above examination paper to some of the candidates in the Bar Admission Course, the examination in the above subject which was written on Friday, February 4th, 1977, will not be marked and every candidate in the Eighteenth Bar Admission Course will be treated as having successfully completed and passed this section of the Course. Any candidate who has failed two or more of the remaining examinations will be given the option of writing a special examination in this subject so that a mark therefor can be included in computing the candidate's average.

It was moved in Convocation, seconded and *carried* that the question of whether the information was leaked by an individual on staff be referred to the Legal Education Committee.

**THE REPORT AS AMENDED WAS ADOPTED**

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**CONVOCATION ADJOURNED FOR LUNCHEON AT 12:30 P.M.**

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The Treasurer and Benchers had as their guests for luncheon Roland O. Daly, Q.C., Donald H. L. Lamont, Q.C., President, The Lawyers' Club, and Donald E. Smith, President, Ontario Office, The Canadian Bar Association. C. F. H. Carson, Q.C., a former Treasurer of the Society, was also present by invitation.

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**CONVOCATION RESUMED AT 2:30 P.M.**

. . . . . .

**PRESENT:**

The Treasurer and Messrs. Bowlby, Brulé, Carrier, Carnwath, Carthy, Cass, Chadwick, Farquharson, Finlayson, Furlong, R. J. S. Gray, Ground, Henderson, Mrs. Legge, Messrs. Lochead, Montgomery, O'Brien, Ogilvie, Pepper, Rogers, Seagram, Mesdames Sutherland and Tait, Messrs. Thom, Tobias, Williston and Willoughby.

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## ADMISSIONS COMMITTEE—Mr. Pepper

Mr. P. B. C. Pepper, Chairman, presented the Report of the Admissions Committee of its meeting on Thursday, 10th February, 1977.

The following members were present: Mrs. L. L. Legge, Vice-Chairman in the Chair, Messrs. Cass and Ground and Mrs. Sutherland.

### ADMISSION OF STUDENTS—AT—LAW

#### Bar Admission Course

A further 9 candidates, having complied with the relevant Regulations, paid the required admission fee of $101 and filed the necessary papers, applied under Regulation 26 (5) for admission to the Law Society as students-at-law in the Bar

Admission Course as of 1st September, 1976.

One candidate, a member of the Quebec Bar, having complied with the relevant Regulations and obtained special permission to take the teaching portion of the Bar Admission Course in lieu of writing the prescribed examinations, paid the required fee of $101 and filed the necessary papers, applied under the general transfer provisions for admission to the Law Society as a student-at-law in the Bar Admission Course which commenced 1st September, 1975.

*Approved*

**DIRECT TRANSFER FROM QUEBEC**

At its meeting on 13th January, 1977, the Admissions Committee had before it applications from sixteen applicants, all members of the Quebec Bar, together with requests to take the teaching portion of the Bar Admission Course in lieu of writing the examinations required by Regulation 4 (2). The Committee approved the requests. Convocation on 21st January referred this item back to the Committee so that further consideration can be given to the adequacy of their knowledge of common law and to their qualifications under Regulation 4 (2). The Chairman appointed Professor Gray a Sub-Committee of one to consider this matter. His report appears below. (See p. 296)

Since the January meeting of the Committee six applications have been received from members of the Quebec Bar, seeking to proceed under Regulation 4 (2) and to take the teaching portion of the Bar Admission Course in lieu of writing the examinations required by the Regulation.

The Committee recommended that these six applicants be approved to proceed under Regulation 4 (2) or 4 (3) and that those with approved common law degrees be advised that they may apply to proceed under Regulation 26.

In addition two applications have been received from members of the Quebec Bar, seeking to proceed under Regulation 4 (2) (without asking to take the teaching period of the Bar Admission Course in lieu of writing the examinations). The Committee approved these applications.

The Chairman appointed a Sub-Committee of Professor R. J. Gray with Messrs. Cass and Ground to consider and make

recommendations with respect to Regulation 4.

**DIRECT TRANSFER**

The Committee approved one application to transfer to practise in Ontario by a lawyer from another common law province.

**FULL TIME MEMBER OF THE FACULTY OF APPROVED LAW SCHOOLS**

The following member of an approved law faculty asked to be called to the Bar and admitted as a solicitor without examination under Regulation 9 respecting full-time members of approved law faculties in Ontario upon payment of a fee of $200. A letter confirming the eligibility of the applicant has been received from the Dean of the relevant law school.

| | |
|---|---|
| John Noel Lyon | LL.B. University of British Columbia, 1960<br>Called to Bar of British Columbia in 1961<br>Ceased membership in 1974. |

*Approved*

**REPORT OF SUB–COMMITTEE TO CONSIDER TRANSFERS FROM THE PROVINCE OF QUEBEC UNDER REGULATION 4 (2)**

The Chairman appointed Professor R. J. Gray a Sub-Committee of one to consider the question of applications for transfer from the Province of Quebec under Regulation 4 (2) with requests to take the teaching portion of the Bar Admission Course in lieu of writing the examinations required by the Regulation.

Mr. Gray's report is as follows:

At the January meeting of Convocation an exceptional number of "Direct Transfer from Quebec" applicants were presented for approval in the report of the Admissions Committee. All fifteen of these applicants sought to proceed pursuant to Regulation 4(2). In addition, all sought special permission to take the teaching portion of the Bar Admission Course in lieu of writing the "comprehensive examination on the common law of Ontario" and "the prescribed examination

on the Statutes of Ontario and the Procedure in Ontario" as required by paragraphs (d) and (e) of Regulation 4(2) respectively. A question was raised as to the appropriateness of approving this procedure. A motion thereupon was passed the effect of which was to postpone approval of (all but one of) the pending applications until a Sub-Committee of the Admissions Committee had reported on this question. I was subsequently asked by the Chairman of the Admissions Committee to act as a Sub-Committee of one, to do some fact finding and to prepare, as soon as possible, a memorandum on this issue for discussion by the Committee.

The Chairman posed a number of specific questions which I have tried to deal with below. However, preliminarily, to understand the questions raised at Convocation, it is necessary to compare Regulation 4(2) with Regulation 4(1) and 4(3). Regulation 4(1) establishes the conditions upon which a lawyer who has been engaged in active practice in a common law province for at least three of the past five years may transfer to the Bar of Ontario. Regulation 4(2) establishes the conditions upon which a lawyer who has been engaged in active practice in Quebec for at least three of the past five years may transfer to the Bar of Ontario. The sole difference in the conditions to be satisfied by these two classes of transfer applicants is that only those from Quebec must pass "a comprehensive examination on the common law". Otherwise the same conditions, including passing the so-called "practice examination" i.e., the examination on the Statutes and Procedure in Ontario apply.

Regulation 4(3) again deals with transfer applications from Quebec lawyers, those who have not been in practice at least three of the past five years. There is no comparable regulation dealing with this class of practitioners from the common law Provinces. The explanation of this apparent lacuna is that such "junior" applicants from common law Provinces are dealt with under Regulation 26, the Bar Admission Course regulation. Such applicants (it is assumed) will be graduates of an approved law course (i.e., a common law course) in a university in Canada and while not meeting the "experience" conditions of Regulation 4(1) for direct transfer, may enter the Bar Admission Course pursuant to Regulation 26(5). The "junior" Quebec lawyer, being a graduate of a civilian (and, therefore, unapproved) law course cannot enter the Bar Admission Course

under Regulation 26(5). Regulation 4(3), in effect, provides a mechanism whereby such persons may enter the Bar Admission Course. What is pertinent for present purposes is that again the essential additional condition such Quebec applicants must meet in comparison with those from the common law Provinces is that they must "successfully complete a one year conversion course in common law" prior to undertaking the Bar Admission Course.

The policy implicit in the distinction made under the Regulations between these two classes of applicants is obvious. Convocation, while concerned that transfer applicants from common law Provinces must prove their competence in Ontario "practice" matters, knowing the academic training requirements for qualification in those Provinces, is satisfied that such applicants possess an adequate background in the general common law of Canada making further proof of this background unnecessary. On the other hand, while concerned that transfer applicants from Quebec must also prove their competence in Ontario "practice" matters but knowing that the academic training requirements for qualification in Quebec understandably do not involve knowledge of the basic common law precepts, Convocation has felt obliged to require of such applicants that they demonstrate that, in one way or another, they have acquired familiarity with the general common law.

Is there anything in Regulation 4 that permits transfer applicants, whether from Quebec or elsewhere, to substitute the teaching (and examination) portion of the Bar Admission Course in lieu of the examinations mentioned in 4(1)(c) and 4(2)(d) and (e). Frankly a fair reading of the Regulation suggests that there is really no support for any such substitution. A precise statutory scheme is set out referring to two examimations – practice and comprehensive – both of which have existed for a considerable time and have a commonly understood meaning. No mention is made of "equivalents" being satisfactory. As a matter of statutory interpretation, the propriety of substituting for the requirements set out in the Regulation, even where it is perfectly clear that the proposed substitute is an equivalent or more than the statutory requirement, is, at best, dubious.

On the other hand, a restrictive interpretation seems particularly unpalatable when the situation is such that the

policy of the statute can be fully satisfied by a liberal interpretation. The Committee has in the past, quite sensibly I believe, taken a liberal view and read the Regulation as permitting substitution of "equivalents". For many years the Committee (and Convocation) has adopted the practice of permitting an applicant, who so requested, to substitute the teaching portion of the Bar Admission Course for the "practice" examination, now mentioned in 4(1)(c) and 4(2)(e). The Bar Admission Course is, after all, a course designed to acquaint its students with Ontario practice and procedure in a wide spectrum of significant areas of law. All concerned recognize its successful completion is proof of "practice" knowledge, the equivalent and beyond, of the "practice" examination mentioned in 4(1) and (2). Over the years, a number of transfer applicants from common law Provinces (i.e., persons applying under Regulation 4(1)) having volunteered to take on the heavier obligation of the Bar Admission Course teaching portion in lieu of the practice examination, have been allowed to do so. In such cases, whether the precise terms of 4(1) were satisfied, the policy of the regulation certainly was.

However, in the past year or two a number of transfer applicants from Quebec (i.e., persons proceeding under Regulation 4(2)) have asked to proceed in the same way, that is, by undertaking the Bar Admission Course in lieu of not merely the "practice" examination but also the "comprehensive" examination.

In six cases from November, 1974 to January, 1977, the Committee (and Convocation) has approved such requests. In retrospect, it seems clear that these cases obtained approval on the coat-tails of the common law transfer applicants. They appeared as isolated instances. Three of the six were described in the information before the Committee as having the LL.B. degree which is usually associated with a common law degree (B.C.L., LL.L. or Licence en Droit being the usual description of the "civilian" degree). In fact, none of the six had a common law degree but this description (LL.B.) may have caused some confusion in the minds of the Committee. In any event, nobody stopped to consider whether there was anything different about the Quebec applicants and whether "approval in lieu" in such cases, satisfied the policy of the Regulation.

It is obvious that there is something significantly different

about the Quebec transfer applicants – such applicants do not, except in rare cases, have the basic common law component in their legal education background. So the question comes down to whether or not the completion of the teaching portion of the Bar Admission Course can be said to satisfy the policy of the Regulation – what I would describe as a policy that every person entering the practice of law in Ontario has demonstrated, in some fashion, at some time, an adequate knowledge of the core subjects of the common law, i.e., such subjects as real property, personal property, torts and contracts.

Put another way, can the Bar Admission Course properly be considered the equivalent of the "comprehensive examination on the common law" mentioned in Regulation 4(2)(d)?I believe the answer, again obviously, is "no". In the end, this is a matter of judgment or opinion not susceptible to objective proof. It is, however, as I understand, also the opinion held by the Director of the Bar Admission Course and his associates. And it is certainly historically the general premise of the Bar Admission Course that its function is not to re-teach or re-examine the students in the substantive law, which they are taken to have acquired in their academic training, but to provide information and training in the practice and procedure of the significant areas of general practice. While it may be conceded that there are exceptions to this general statement and that some of the courses in the Bar Admission Course do review and effectively re-examine the students on the substantive law relating to their area, it should also be conceded that this is the exception and, more importantly, that no course in the present list of BAC subjects would review or re-examine in what I have, above, called the core subjects of the common law – those subjects which provide the common law lawyer with the basic premises from which he approaches private law problems.

Finally, there is strong evidence provided by Regulation 4(3) that Convocation has already come to the conclusion that completion of the Bar Admission Course does not of itself ensure an adequate knowledge of the common law: that is, the regulation, previously discussed, that provides a mechanism for "junior" members of the Quebec Bar to transfer to Ontario. It requires both the Bar Admission Course *and* "a one year conversion course in common law". *Res ipsa loquitur.*

In any event, the Committee (and Convocation) must make a judgment on this issue. I believe we should say "no", completion of the teaching portion of the Bar Admission Course is not a satisfactory equivalent to the "comprehensive" common law examination. The handful of "yes" decisions have been made *"per incuriam"* and to some extent on misperceptions of the true educational qualifications of the applicants. I think now that these decisions were in error. That such cases will have to be lived with is no argument to perpetuate this error. If it is any consolation, three of the six approved applicants (Morris, Baker and Boucher) have not taken up the approvals and their opportunity to do so has, presumably, lapsed. (Raymond is reported to have completed the Course, Beinhaker is about to, and Freiheit is applying for the September 1977 session of the Course).

On the other hand although recommending "no" to the "Bar Course in lieu" proposal, in keeping with the liberal interpretation of Regulation 4 that the Committee has asserted in the past, I would recommend that where the Committee ascertains that, exceptionally, an applicant under Regulation 4(2), i.e., a Quebec transfer applicant, has, in fact, a legitimate common law background (in other words, that he is a person whose qualifications, in fact, satisfy the policy of the Regulation) such as, for example, Robert E. Stein on the January list who in addition to his "civilian" degree has a Dalhousie common law degree, then the Committee should find an equivalence to the comprehensive, common law degree exists, waive the examination requirement, and thus, effectively, permit such a person to proceed in the same manner as a Regulation 4(1) applicant.

There is another way of approaching this problem which might well lead to the same answer with respect to substituting the teaching portion of the Bar Admission Course for either of the examinations mentioned in Regulation 4, entirely apart from the "common law" equivalence question. The fact is that the Bar Admission Course is practically overwhelmed by numbers. The Director of the Course finds every added body, an added burden. Such added bodies take up scarce space and cost far more in scarce dollars than their fees bring in. Any substantial influx would spell, if not disaster, then, at least, serious trouble to the proper functioning of the Course.

And there is, indeed, in light of the situation in Quebec, the potential for such a substantial influx if the practice of permitting transfer applicants to take the teaching portion of the Bar Admission Course in lieu of the Regulation 4(2) examinations is continued. The "100 to 150 serious enquiries from Quebec" hypothesized by Mr. Jarvis at the January Committee meeting is, on investigation, quite a realistic figure. Since the election in Quebec (less than three months ago) Mr. Jarvis's office has sent 67 letters and sets of application materials to potential transfer applicants from Quebec. In addition, there has been a steady flow of "drop-ins" to the Society's office to obtain the application materials over the counter. No written record is kept of these encounters. The office staff is confident that the recorded and unrecorded enquiries total well in excess of 100.

The Bar Admission Course cannot and should not be expected to cope with any such influx unless there is no practicable alternative available to persons who aspire to transfer to practice here. But there is the simple, rational and equitable scheme provided by Regulation 4(2). We should insist on it being used.

There is one aspect in which our scheme of examinations might be criticized and which may, indeed, be part of the explanation why a significant number of transfer applicants seek to undertake the teaching portion of the Bar Admission Course in lieu of examinations. It is my understanding that no syllabus of the topics upon which the examinees are to be examined is available to the candidates for either the "practice" or the "comprehensive" examinations, nor are sample or past examinations available. If this is so, I find it understandable why some may be frightened off from pursuing the examination route. Surely this situation could be remedied very easily.

**THE REPORT WAS ADOPTED**

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## FINANCE COMMITTEE—Mr. Pallett

Mr. J. A. Brulé, Vice-Chairman, presented the Report of the Finance Committee of its meeting on Thursday, 10th

February, 1977.

The following members were present: Messrs. Pallett (Chairman), Brulé, Farquharson, Fennell, Ground, Henderson, Ogilvie and Sheard.

## ROLLS AND RECORDS

### *Appointments to the Bench*

The following members have been honoured by their appointments to judicial office and their membership in the Society will be placed in abeyance upon their assuming office:

| | |
|---|---|
| Donald Alexander McKenzie<br>Toronto | Called – 26 March 1965<br>Appointed Provincial Judge, Criminal Division, Judicial District of Kenora – 30 June 1976 |
| Jean-Marie Bordeleau, Q.C.<br>Kapuskasing | Called – 19 April 1963<br>Appointed Provincial Judge, Criminal Division, Judicial District of Ottawa-Carleton – 16 December 1976 |

### *Deaths*

The following members have died:

| | |
|---|---|
| William Kenneth Lees, Q.C.<br>Hamilton<br>(Life Member) | Called – 16 January 1919<br>Deceased – 9 January 1977 |
| Senator George Stanley White, Q.C.<br>Madoc<br>(Life Member) | Called – 21 October 1920<br>Deceased – 6 January 1977 |
| Donald Absalom Brown<br>Toronto | Called – 19 March 1970<br>Deceased – 26 December 1976 |
| Hugh Clayton Cameron, Q.C.<br>St. Thomas<br>(Life Member) | Called – 5 February 1920<br>Deceased – 3 January 1977 |
| Thomas Allinson Hutchinson, Q.C.<br>Milton<br>(Life Member) | Called – 21 October 1920<br>Deceased – 12 January 1977 |
| Cecil Eugene Putman, Q.C.<br>Toronto<br>(Life Member) | Called – 21 October 1920<br>Deceased – 24 January 1977 |
| Harry Mills Ford<br>Toronto<br>(Life Member) | Called – 22 May 1919<br>Deceased – 23 January 1977 |
| Robert William Summerby, Q.C.<br>Brockville | Called – 14 September 1951<br>Deceased – 5 October 1976 |

| | |
|---|---|
| J. Gerald Godsoe, Q.C.<br>Toronto | Called – 21 May 1936<br>Deceased – 12 January 1977 |
| Samuel John Kelner, Q.C.<br>Toronto | Called – 21 June 1945<br>Deceased – 31 January 1977 |

*Noted*

**MEMBERSHIP UNDER RULE 50 – RETIRED MEMBERS**

The following members who are sixty-five years of age or over and who are fully retired from the practice of law and other employment requested permission to continue their membership in the Society at a reduced annual fee of $25:

| | |
|---|---|
| Milton Erele Armstrong | – Ottawa |
| Elmore Clifton Carr, Q.C. | – Thornbury |
| Irving Freeman, Q.C. | – Toronto |
| Louis Lawrence Lionel Golden | – New York |
| Beatrice Elizabeth Mathews, Q.C. | – Toronto |
| Ernest Clifford Went | – Willowdale |

*Frances Armstrong Milne*, of Hamilton, paid fees for 1976-77 in the amount of $225. Miss Milne has applied for retired status. Should her application for membership at a reduced annual fee of $25 be granted, an amount of $200 will be refunded to her.

*Approved*

**RESIGNATION**

Mr. *Michael Woolfe,* of Boca Raton, Florida, applied for permission to resign his membership in the Society. He submitted his Statutory Declaration as well as a copy of his notice of application for permission to resign which was published in the Ontario Reports in December 1976.

The Society received representations from one of its members with regard to Mr. Woolfe's conduct during the time that he practised law in Toronto.

The Committee recommended that Mr. Woolfe be permitted to resign his membership.

**MEMBERSHIP AT A REDUCED ANNUAL FEE – INCAPACITATED MEMBERS**

At its meeting on 13th January, 1977, the Committee considered the position of members who through accident or illness are permanently disabled from practice but who cannot take advantage of the reduced membership fee of $25 because they have not attained the age of 65 years. The matter arose in this instance from a letter written on behalf of Mr. William M. H. Colin, Q.C. which was before the Committee.

The Committee's recommendation at that time was that such members be permitted to continue their membership in the Society without payment of fees or levies.

The Committee reconsidered whether such members should be placed in the same category as retired members over the age of 65 years and pay a reduced annual fee of $25 and so recommended.

**CHANGES OF NAMES**

*Marija Jurate Daniliunas,* a solicitor practising in London, requested that her name be changed on the Rolls of the Society to Marija Jurate *Danilunas.* A copy of the Order of His Honour Judge McCart dated the 18th of January 1977 was before the Committee.

*Joan Walker Robinette,* a solicitor in Toronto, requested that her name be changed on the Rolls of the Society to Joan Walker Robinette *Sadleir,* thus including her married name.

*Johannes Wilhelmus Catharina Maria Schel,* a student member, requested that her name be changed on the Rolls of the Society to Johannes Wilhelmus *Schel.* A copy of the Order of His Honour Judge Rapson dated the 27th of October 1976 was before the Committee.

*Approved*

**REFUND OF FEES**

Mr. *David Bennett Gallagher* withdrew from the current teaching term of the Bar Admission Course. His last day of attendance was 5th January, 1977. The Committee was asked to approve the refund of part of his tuition fees in the amount

of $110.

Mr. *Marvin Joel Singer* withdrew from the current teaching term of the Bar Admission Course for medical reasons. His last day of attendance was 5th January, 1977. The Committee was asked to approve the refund of part of his tuition fees in the amount of $110.

Mr. *Michael J. Darling* withdrew from the current teaching term of the Bar Admission Course. His last day of attendance was 13th January, 1977. The Committee was asked to approve the refund of part of this tuition fees in the amount of $70.

*Approved*

**LIBRARIES AND REPORTING COMMITTEE**

**County Library Grants**

*Annual Grant*

The Association listed below has sent in its Annual Return for the year 1976. The amount of the grant which it should receive under the Regulations in 1977 and that which it received in 1976 are as follows and were considered by the Libraries and Reporting Committee at its meeting on 10th February, 1977, and approved, subject to the approval of this Committee:

| | *1976* | *1977* |
|---|---|---|
| Bruce | $1,600.00 | $1,670.00 |

*Approved*

**DISCIPLINE COMMITTEE**

The Committee had before it an up-to-date schedule giving amounts outstanding in respect of orders as to costs made by Convocation against members who have been subject to Discipline Committee hearings.

The Committee recommended that action be taken against those who have paid nothing for the past year.

**LEGAL EDUCATION COMMITTEE**

The following item was approved by the Legal Education

Committee at its meeting on 10th February 1977:

BAR ADMISSION COURSE – DATE FOR FILING APPLICATIONS OF STUDENT MEMBERS, RULE 50 and REGULATION 26 (7)

Regulation 26 (7) provides that an applicant for admission as a student member in the Bar Admission Course shall file a completed application and supporting documents on or before the fourth Friday in the month of July and Rule 50 provides for a fee of $101, upon becoming a student member of the Society, payable upon filing application on or before the fourth Friday in the month of July. Rule 50 further provides that in case an application is filed late, an additional fee of $10 is payable for the first day and $1 for each day thereafter, to a maximum of $100. The said final day for filing applications and payment of the fee has been unenforceable in practice because a student is required to file articles of clerkship with his or her application and in many instances articling arrangements are not made until the end of August. In practice, therefore, the end of August has for some years been treated as the final day for filing applications and payment of the fee, although the regulation and the rule have not been so amended. It is recommended that the regulation and the rule be so amended to provide that applications be filed and the fee paid on or before the 31st day of August to bring these provisions in keeping with the permissible period of articles under Regulation 27 (4)(a).

*Approved*

**THE REPORT WAS ADOPTED**

. . . . . .

## DISCIPLINE COMMITTEE (Continued)

### General

Mr. G. H. Lochead, Chairman, presented the General Report of the Policy Section of the Discipline Committee of its meeting on Thursday, 13th January, 1977.

The following members were present: Messrs. Lochead (Chairman), Carnwath (Vice-Chairman), Cartwright, Cass, Cooper, Furlong, Kellock, O'Brien and Mrs. Sutherland.

## 1. SUB–COMMITTEE ON DISCIPLINE PROCEDURES IN CONVOCATION

The Committee had before it a Report of the above-named Sub-Committee. Certain amendments having been incorporated in the Report, the Committee recommended its adoption.

*Stand* for consideration when the Report of the Special Committee on Convocation and Election of Benchers is considered by Convocation.

## 2. SUB–COMMITTEE ON CONFIDENTIAL RECORDS

The Committee had before it a Report of the above-named Sub-Committee. One amendment having been incorporated in the Report, the Committee recommended its adoption. The Report is as follows:

> The Sub-Committee considered the question of the confidentiality of records in the possession of the Law Society that relate to members, former members and student members of the Society.
>
> It is our opinion that generally no information from such records should be made available voluntarily to any person except an employee of the Society, the scope of whose employment contemplates access to such records.
>
> Subject to the general rule set out above, the Chairman or Vice-Chairman of the Discipline Committee or the Treasurer should be empowered, in their discretion, to provide information from the records of the Society to a person having a legitimate interest in receiving such information. They should be guided in the exercise of that discretion by consideration of the nature of the information sought, the legitimacy of the interest of the inquirer, the potential injury to the Society or to its member or student member and the potential liability for any such disclosure or information released, but always subject to the principal concern of the Society for confidentiality of such records.
>
> We considered those persons who might have a legitimate interest in information contained in such records. These might include the member of the Society, or student member to whom the records relate, and counsel authorized by them, partners and associates of the solicitor, Benchers, and counsel representing other solicitors charged with disciplinary offences. There may also be other categories of persons whom the Chairman or Vice-Chairman of the

Discipline Committee or the Treasurer may consider in the circumstances to have a legitimate interest in obtaining such information.

Where information from a record of the Society is sought from the Secretariat of the Society by a person who clearly has a legitimate interest in receiving such information, and the inquiry is concerning a routine matter, and where there is clearly no concern about the confidentiality of the information sought, the Secretariat may provide such information to the inquirer. In any other circumstances or where the Secretariat is in doubt about the legitimacy of the interest of the inquirer or the contentiousness or confidentiality of the information sought, or the propriety of releasing such information, it should refer the matter for decision to the Chairman or Vice-Chairman of the Discipline Committee or to the Treasurer.

3. The Committee received a report from Mr. Anderson with respect to blitzes that he proposed to conduct this month. He was instructed to proceed forthwith.

4. The Referee dealing with the claims to the Compensation Fund arising out of the practice of Emil Lenko concluded from the evidence adduced on those hearings that between the issuance of the Society's Complaint and Mr. Lenko's disbarment he had actively engaged in bilking clients of a very large amount of money. The Referee accordingly brought this fact to the Committee's attention.

The Committee recommended that the Treasurer appoint a Special Committee to consider the matter and make recommendations.

**WITH THE EXCEPTION OF ITEM 1**

**THE REPORT WAS ADOPTED**

. . . . . .

Mr. Lochead presented the General Report of the Policy Section of the Discipline Committee of its meeting on Thursday, 10th February, 1977.

The following members were present: Messrs. Lochead (Chairman), Bynoe (Vice-Chairman), Carnwath

(Vice-Chairman), Cartwright, Cass, Cooper, Furlong and Mrs. Sutherland.

**1. DIRECTIONS THAT CHEQUES BE MADE PAYABLE TO VENDOR'S SOLICITOR**

It has come to the Committee's attention that there is some confusion amongst the profession with respect to whether a direction is required on the closing of a real estate transaction in order that the cheque covering the balance due on closing be made payable to the vendor's solicitor instead of the vendor. The Committee is of the opinion that payment of any money to the vendor's solicitor without an appropriate direction is imprudent. The Committee recommended that this opinion, if it meets with the approval of Convocation, be an item for the Communiqué.

**2. FORM 2**

The Institute of Chartered Accountants has expressed concern that the present format of Form 2 could result in an accountant being considered as taking some responsibility for the declaration part of Form 2 which is completed by the lawyer. The reason for this is that both the auditor's part and the declaration are included under the common heading Form 2. It has been suggested that this concern can be overcome by the declaration part of Form 2 retaining that heading while the report of the public accountant be designated as Form 3. The Committee recommended adoption of this proposal.

**3. APPOINTMENT OF NEW REFEREE**

The Committee was of the opinion that work in connection with the Society's Compensation Fund would benefit from the appointment of a further Referee and accordingly recommended the appointment of The Honourable George A. Gale as Referee.

**THE REPORT WAS ADOPTED**

. . . . . .

## COMPENSATION FUND SUMMARY

Mr. J. D. Carnwath, Vice-Chairman, presented the Compensation Fund Summary for the period ended 31st January, 1977.

### COMPENSATION FUND

**For the Period 1st July 1976, to 31st January, 1977**

**(7 months)**

| | |
|---|---|
| TOTAL RECEIPTS | $ 304,913.01 |
| TOTAL DISBURSEMENTS | $ 138,915.20 |
| EXCESS OF RECEIPTS OVER DISBURSEMENTS | $ 165,997.81 |
| BALANCE OF FUND at beginning of period | $1,486,468.30 |
| BALANCE OF FUND at end of period | $1,652,466.11 |

### RESUME OF GROSS CLAIMS OUTSTANDING

| | |
|---|---|
| CLAIMS RECEIVED and in the course of being processed as of 31st January, 1977 | $3,190,810.92 |
| TOTAL PAID to 31st January, 1977 from the commencement of the Fund on account of 958 claims of 104 former solicitors | $3,648,934.12 |

**THE SUMMARY WAS RECEIVED**

. . . . . .

## PROFESSIONAL CONDUCT COMMITTEE–Mr. Cooper

Mr. J. D. Carnwath presented the Report of the Professional Conduct Committee of its meeting on Thursday, 10th February, 1977.

The following members were present: Messrs. Cooper (Chairman), Carnwath, Chappell, Lochead, Strauss and Mrs. Sutherland.

**1. ACCOUNTS RECEIVABLE**

A lawyer has written to the Committee stating that a client of his firm is engaged in the business of purchasing accounts receivable from various businesses. He asked whether or not it would be possible for his client to purchase the accounts receivable of law firms. The Committee is of the opinion that it would not be compatible with the dignity of the profession for a solicitor to sell his accounts receivable.

On motions made in Convocation, seconded and carried, items 2, 3 and 4 contained in the Report were referred back to the Committee for further consideration.

**TWE REPORT AS AMENDED WAS ADOPTED**

. . . . . .

**CONVOCATION ROSE AT 5:00 P.M.**

. . . . . .

Read in Convocation and confirmed 15th April, 1977.

W. GIBSON GRAY
Treasurer

THE LAW SOCIETY OF UPPER CANADA

# Minutes of Convocation

VOLUME 2

VOLUME 2

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THE LAW SOCIETY OF UPPER CANADA

# Minutes of Convocation

Volume 2 Number 1

Members wishing to receive the Minutes of Convocation are asked to complete the form below and send it to the Society.

---

The Secretary,
The Law Society of Upper Canada,
Osgoode Hall,
Toronto, Ontario
M5H 2N6

I would like to receive the Minutes of Convocation at the address below:

Name .....

Address .....

.....

.....

# MINUTES OF CONVOCATION
## (ABRIDGED)

Friday, 18th March, 1977
10:00 a.m.

**PRESENT:**

The Treasurer (Mr. W. Gibson Gray) and Messrs. Bowlby, Brulé, Carnwath, Carthy, Cass, Common, Cooper, Farquharson, Fennell, Finlayson, R.J.S. Gray, Ground, Henderson, Humphrey, Kellock, Mrs. Legge, Messrs. Linden, Lochead, Montgomery, Pallett, Pepper, Rogers, Salhany, Seagram, Slemin, Strauss, Mesdames Sutherland and Tait, Messrs. Tobias, Willoughby and Wilson.

. . . . . .

**APPOINTMENT OF SPECIAL COMMITTEE ON INTERIM SUSPENSION**

The Treasurer advised Convocation that pursuant to the recommendation of the Discipline Committee adopted at Convocation on 18th February, 1977, he had appointed a Special Committee composed of Messrs. O'Brien, Fennell, Humphrey, Kellock, and Mrs. Sutherland to consider the problem of a member continuing to misappropriate funds between the issuance of a Complaint by the Society and the member's subsequent disbarment and to make recommendations.

. . . . . .

## LEGAL EDUCATION COMMITTEE–Mr. Finlayson

Mr. G.D. Finlayson, Chairman, presented the Report of the Legal Education Committee of its meeting on Friday, 18th March, 1977, prior to Convocation.

The following members were present: Mr. G.D. Finlayson, Chairman, Mr. J.D. Ground, Vice-Chairman, Mr. G.F. Henderson, Vice-Chairman, Messrs. Montgomery, Rogers, and Mrs. Tait.

**EXAMINATION RESULTS – EIGHTEENTH BAR ADMISSION COURSE**

The report of the Director of the Bar Admission Course on the results of the examination was before the Committee showing that 901 passed and 19 failed.

*Approved*

**THE REPORT WAS ADOPTED**

. . . . . .

Mr. Finlayson presented the Report of the Legal Education Committee of its meeting on Thursday, 10th March, 1977.

The following members were present: Mr. J.D. Ground, Vice-Chairman in the Chair, and Messrs. Brulé, Montgomery, Salhany and Mrs. Tait.

**BAR ADMISSION COURSE – GOVERNMENT OPERATING GRANT, 1977-78**

On February 14th, 1977, the Society received from the Ministry of Colleges and Universities advice that the government's operating grant by way of a partial grant-in-aid to the Law Society of Upper Canada for the Bar Admission Course for the year 1977-78 is in the amount of $432,000. This grant is made on the understanding that the fee charged to students in the Bar Admission Course in 1977-78 will not exceed the fee charged in 1976-77 by more than $100. The grant of $432,000 is an increase of 8% over the grant for the current year.

*Noted*

**BAR ADMISSION COURSE – TUITION FEES 1977-78**

In making its submissions to the Council on University Affairs in respect of the government operating grant for the year 1977-78, the Society advised that it proposed to increase the tuition fees payable by students in that year. The Society has now been advised of the amount and terms of the government operating grant in question and it is desirable that a decision be made respecting any increase in tuition fees.

The Committee recommended that the Bar Admission

Course fee for students for 1977-1978 be increased from $475 to $525.

It was moved in Convocation, seconded and *carried,* that the increase in student fees be $100, that is, from $475 to $575.

**BAR ADMISSION COURSE – REPORT RESPECTING THE COMPLETION OF THE 1976-77 TEACHING TERM**

The teaching term of the 18th Bar Admission Course ended on Friday, February 18th. Special examinations were written on Monday, February 28th and Thursday, March 3rd by 16 candidates who had been unable to write the regular examinations in certain sections of the course. Approximately 15 candidates have elected to write the special examination in Estate Planning and Administration of Estates on Thursday, March 10th. It is planned that all marks of all examinations will be in hand on Monday, March 14th and that the Board of Review will sit for its final review on that date.

*Noted*

**BAR ADMISSION COURSE – GRADUATE PLACEMENT SERVICE**

The Bar Admission Course graduate placement service received a total of 84 requests for graduate placements during the 1976-77 teaching term. Of these 36 positions were in Metropolitan Toronto and 48 were outside of Metropolitan Toronto. In the case of the Toronto positions, 22 have either been filled or have resulted in enough applications from which a selection will be made leaving 14 vacancies yet to be filled. In the case of the 48 placement positions outside of Metropolitan Toronto, 28 have been filled or have resulted in a sufficient number of applicants and 20 vacancies remain. The majority of the vacancies are in the offices of lawyers engaged in general practice.

*Noted*

**BAR ADMISSION COURSE AND CONTINUING EDUCATION**

The Committee dealt with a number of special petitions; considered financial statements for the Bar Admission Course and Continuing Education; and reviewed a summary of Continuing Education Programmes presented during February 1977 and the Continuing Education publications report for February

1977.

**LONDON PREMISES – BAR ADMISSION COURSE**

The Director advised the Committee that Kings College wishes to lease part of the premises presently leased by the Law Society for the London Bar Admission Course. The Committee appointed a Sub-Committee composed of the Chairman, Mr. Ground, one of the Vice-Chairmen, the Director, and Mr. Buchner, the Assistant Director in charge of the London Bar Admission Course, to look into their request.

**THE REPORT AS AMENDED WAS ADOPTED**

. . . . . .

## ADMISSIONS COMMITTEE–Mr. Pepper

Mr. P.B.C. Pepper, Chairman, presented the Report of the Admissions Committee of its meeting on Friday, 18th March, 1977, prior to Convocation.

The following members were present: Mr. R.W. Cass, in the Chair, and Messrs. Finlayson, Ground and Henderson.

**CALL TO THE BAR AND CERTIFICATE OF FITNESS**

**Bar Admission Course**

A list of 887 candidates, who had successfully completed the Eighteenth Bar Admission Course, filed the necessary documents and paid the required fee of $210.00 and applied for call to the Bar and to be granted Certificates of Fitness, was submitted as follows:

| | | | |
|---|---|---|---|
| (a) | In Ottawa on Friday, 25th March, 1977 | – | 130 |
| (b) | In London on Monday, 28th March, 1977 | – | 92 |
| (c) | In Toronto on Tuesday, 29th March, 1977 | – | 665 |

*Approved*

**THE REPORT WAS ADOPTED**

. . . . . .

Mr. Pepper presented the Report of the Admissions Committee of its meeting on Thursday, 10th March, 1977.

The following members were present: Mr. P.B.C. Pepper, Chairman, Mrs. L.L. Legge, Vice-Chairman, and Messrs. Cass, R.J. Gray, Ground, Shepherd, White and Mrs. Sutherland.

**CALL TO THE BAR AND CERTIFICATE OF FITNESS**

*Transfer from another Province*

The following candidate, having passed the comprehensive examination on Common Law and the examination set by the Examining Board, filed the necessary documents and paid the required fee of $511, applied for call to the Bar and to be granted a Certificate of Fitness:

| | |
|---|---|
| Steven Cy Letovsky | Province of Quebec |

*Approved*

*Special*

The following candidates, having filed the necessary papers and complied with the requirements of the Admissions Committee in their particular case and paid the required fee of $200, are entitled to be called to the Bar and to be granted a Certificate of Fitness:

| | |
|---|---|
| Bernard Morris Dickens | Faculty of Law, University of Toronto |
| John Noel Lyon | Faculty of Law, Queen's University |

*Approved*

**DIRECT TRANSFER FROM QUEBEC**

The Committee considered and approved five applications for direct transfer to practise in Ontario by members of the Quebec Bar who sought permission to proceed under Regulation 4 (2).

**DIRECT TRANSFER**

The Committee considered an application for direct transfer to practice in Ontario by a Nova Scotia solicitor who sought permission to proceed under Regulation 3 (1) and 4 (1) although he lacked the required three years of active practice. The Committee recommended that the application be denied.

**SPECIAL PETITION**

The Committee had before it a petition from a solicitor who had been given permission to take the teaching portion of the Bar Admission Course in 1975 in lieu of writing the examinations required by Regulation 4 (2) and who had been unable to proceed at that time; he sought permission to enter the teaching term in September 1977. The Committee recommended that the petition be not granted.

**THE REPORT WAS ADOPTED**

. . . . . .

**CALL TO THE BAR**

The following candidates were presented to the Treasurer and Convocation and were called to the Bar, and the degree of Barrister-at-law was conferred upon each of them by the Treasurer:

| | |
|---|---|
| Bernard Morris Dickens | – Professor, University of Toronto |
| Steven Cy Letovsky | – Special, Transfer, Quebec |
| John Noel Lyon | – Professor, Queen's University |

. . . . . .

**MINUTES**

The Minutes of Special Convocation of 11th February, 1977 were read and confirmed.

. . . . . .

## DISCIPLINE COMMITTEE–Mr. Lochead

**Re: EDMOND IRANI, Ottawa**

Mr. G. H. Lochead, Chairman, placed the matter before Convocation.

The reporter was sworn.

The solicitor appeared without counsel. Mr. J. Douglas Crane, Q.C., represented the Society.

The solicitor waived the reading of the Decision of the Discipline Committee dated 28th January, 1977, wherein he was found guilty of professional misconduct. While acting under Legal Aid certificates, the solicitor had obtained remuneration from clients not authorized by The Legal Aid Act, solicited legal business and improperly acted for a client whom he had previously assisted as duty counsel.

It was moved and seconded that the Decision of the Discipline Committee dated 28th January, 1977, be accepted.

The solicitor made submissions. Counsel for the Society made submissions.

The solicitor, counsel and the reporter retired.

The motion that the Decision be accepted was *carried.*

It was moved and seconded that the solicitor be reprimanded in Convocation and that he be required to pay the costs of the Society in connection with the investigation and prosecution of the Complaint in the amount of $3,380.80.

It was moved and seconded that the solicitor's rights and privileges as a member of the Society be suspended for a period of six months and that he be required to pay the costs of the Society in connection with the investigation and prosecution of the Complaint in the amount of $3,380.80.

It was moved and seconded that the solicitor be reprimanded in Convocation and that he be required to pay 50% of the costs of the Society, that is, $1,690.40.

The solicitor, counsel and the reporter returned.

The solicitor and counsel were advised that the Decision of the Discipline Committee had been accepted by Convocation and of the three motions respecting penalty before Convocation. The solicitor was given the opportunity to request an adjournment because one of the motions could impose a more severe penalty than that recommended by the Discipline Committee.

The solicitor did not wish an adjournment. He made submissions respecting penalty.

The solicitor, counsel and the reporter withdrew.

The motion that the solicitor be suspended for a period of six months and required to pay the Society's costs was *lost.*

The motion that the solicitor be reprimanded in Convocation and required to pay the Society's costs was *carried.*

The motion that the solicitor be reprimanded in Convocation and required to pay half the Society's costs was *not put.*

The solicitor, counsel and the reporter returned.

The solicitor and counsel were informed of Convocation's action. The solicitor was advised of his right of appeal and that if he wished to do so, he could waive his right of appeal and request that the penalty of reprimand be carried out forthwith. The solicitor waived his right of appeal.

The Treasurer reprimanded the solicitor.

. . . . . .

**CONVOCATION ADJOURNED FOR LUNCHEON AT 12:45 P.M.**

. . . . . .

The Treasurer and Benchers had as their guests at luncheon Mrs. Margaret Campbell, M.L.A., H. Allan Leal, Q.C., whose appointment as Deputy Attorney General for Ontario became effective on this date, and Stanley C. Biggs, Q.C., former president of The Lawyers' Club.

. . . . . .

**CONVOCATION RESUMED AT 2:30 P.M.**

. . . . . .

**PRESENT**:

The Treasurer and Messrs. Bowlby, Brulé, Carnwath, Common, Cooper, Farquharson, Finlayson, R. J. S. Gray, Ground, Henderson, Humphrey, Kellock, Mrs. Legge,

Messrs. Linden, Lochead, Montgomery, Pallett, Pepper, Rogers, Salhany, Seagram, Slemin, Mesdames Sutherland and Tait, Messrs. Tobias, Willoughby and Wilson.

. . . . . .

## FINANCE COMMITTEE–Mr. Pallett

Mr. J. C. Pallett, Chairman, presented the Report of the Finance Committee of its meeting on Thursday, 10th March, 1977.

The following members were present: Messrs. Brulé (Vice-Chairman), Ground, Ogilvie and Wilson.

### ROLLS AND RECORDS

*Appointments to the Bench*

The following members have been honoured by their appointments to judicial office and their membership in the Society will be placed in abeyance upon their assuming office:

| | |
|---|---|
| Gerard E. Cloutier, Q.C.<br>Kapuskasing | Called – 12 April 1962<br>Appointed Provincial Judge, Criminal Division, District of Cochrane – 15 December 1976 |
| Harold Henry Bick<br>Windsor | Called – 12 April 1962<br>Appointed Provincial Judge, Family Division, County of Essex – 7 February 1977 |
| Bruce Clyde Hawkins<br>Toronto | Called – 8 April 1960<br>Appointed County Court Judge, County of York – 17 February 1977 |
| Joseph David Sheard, Q.C.<br>Toronto | Called – 21 June 1951<br>Appointed County Court Judge, County of York – 17 February 1977 |
| Chester Carl Misener<br>Stratford | Called – 28 June 1956<br>Appointed County Court Judge, Judicial District of Peel – 17 February 1977 |

| | |
|---|---|
| Frank Woods Callaghan, Q.C.<br>Toronto | Called – 27 June 1957<br>Appointed County Court Judge,<br>County of York – 17 February 1977 |
| James Douglas Bernstein<br>Cochrane | Called – 26 March 1965<br>Appointed County Court Judge,<br>District of Temiskaming –<br>16 February 1977 |

*Noted*

*Deaths*

The following members have died:

| | |
|---|---|
| Enoch George Percy Dean, Q.C.<br>Toronto<br>(Life Member) | Called – 18 October 1923<br>Deceased – 3 February 1977 |
| Gerald Douglas Loucks, Q.C.<br>Kemptville | Called – 17 November 1938<br>Deceased – 4 January 1977 |
| Glen Macaulay Wilton, Q.C.<br>Toronto | Called – 20 October 1932<br>Deceased – 26 February 1977 |
| Harry James Reynolds, Q.C.<br>North Bay<br>(Life Member) | Called – 11 September 1919<br>Deceased – 18 February 1977 |

*Noted*

*Readmission*

The following former member of the Society, having complied with the requirements of the Admissions Committee, was readmitted and his membership in the Law Society was restored

| | |
|---|---|
| Gordon Ross Mackay<br>Toronto | Readmitted –<br>Convocation, 21 January 1977 |

*Noted*

*Disbarment*

*Victor Beube,* of Toronto, was disbarred by Order of Convocation dated the 11th of February 1977. The Order was filed and recorded in the Minutes of Convocation of the 18th of February 1977. Mr. Beube subsequently retained Counsel to

appeal the Order of Convocation. On the 28th of February 1977, the Court ordered that the Society's Order be stayed pending the disposition of the appeal by the applicant.

*Noted*

**MEMBERSHIP RESTORED**

*His Honour Judge David Sylvester Charlton* gave notice under section 31 of The Law Society Act that he had retired as a County Court Judge, County of Waterloo, on the 29th of December 1976 and wished to be restored to the Rolls of the Law Society. He also requested permission to resume his membership in the Society at a reduced annual fee of $25.00 as provided by Rule 50.

*His Honour Judge Kenneth Murney Langdon* gave notice under section 31 of The Law Society Act that his appointment as a Supernumerary Judge had not been extended and he had therefore retired from the Provincial Bench. He requested permission to resume his membership in the Society at a reduced annual fee of $25.00 as provided by Rule 50.

*Noted*

**MEMBERSHIP UNDER RULE 50 – RETIRED MEMBERS**

The following members who are sixty-five years of age or over and who are fully retired from the practice of law and other employment requested permission to continue their membership in the Society at a reduced fee of $25:

| | |
|---|---|
| David Sylvester Charlton, Q.C. | – Cambridge |
| Kenneth Murney Langdon | – Georgetown |
| Nelson McFarlane | – Stratford |

The Committee recommended that the applications of *David Sylvester Charlton* and *Nelson McFarlane* be approved.

With regard to the application of *Kenneth Murney Langdon,* the Committee recommends that this application be allowed to stand pending clarification as to whether or not he is fully retired.

**ANNUAL FEES – REQUEST FOR EXTENSION OF TIME**

The following item was before the Committee at its meeting in February and was allowed to stand:

"*Donald R. Todd,* of Cambridge, was called to the Bar on the 29th of June 1950. For the past two years, he has been unable to engage in any practice or employment because of illness. Mr. Todd advises that he is finding it impossible at this time to meet the payment of his fees for 1976-77 within the specified time and is therefore requesting an extension of time. His letter of the 10th of January is before the Committee."

The Committee recommends that Mr. Todd's application for an extension of time to pay his annual fees for 1976-77 be *denied.* Mr. Todd will be advised of the extension to Rule 50 making it applicable to disabled members.

**CHANGE OF NAME**

*Mary Lou Benotto,* a student member, requested that her name be changed on the Rolls of the Society to Mary Lou *Benotto-Bell,* thus including her married name.

*Mary Jo Anderson,* a student member, requested that her name be changed on the Rolls of the Society to Mary Jo Anderson *Nicholson,* thus including her married name.

*Belinda Anne Kirkwood-Rabinovitch,* a student member, requested that her name be changed on the Rolls of the Society to Belinda Anne *Kirkwood,* her maiden name.

*Faye Wynne McIntosh,* a student member, requested that her name be changed on the Rolls of the Society to Faye Wynne McIntosh *Janis,* her married name.

*Approved*

**BARRISTERS' DINING ROOM**

Mrs. Prince submitted figures for the operation of the Barristers' Dining Room for the sixteen weeks ended December 31, 1976, which were substantially worse than those of a year ago:

| | Dec. 31/76<br>$ | Dec. 31/75<br>$ |
|---|---|---|
| Sales | 21,913 | 20,269 |
| Costs – Food | 11,133 | 9,473 |
| Costs – Expenses | 11,875 | 9,802 |
| Net Profit (Loss) | (1,095) | 994 |

To meet the guarantee for this period of $160.00 per week, a payment of $3,655.00 was required compared to $1,726.00 for the corresponding period in 1975 and $4,058.00 for the whole year 1975/76.

The Committee was asked to:

(i) Approve a subsidy payment of $3,655.00 now;

(ii) Consider whether any action might be necessary to reduce the loss for the remainder of the year;

(iii) Consider what subsidy will be necessary due to the earlier closing of the Dining Room this year because of building construction.

The guarantee of $160.00 per week was set in September 1974 and no change has been made in respect of increases in cost of living, etc.

The Committee recommended approval of a subsidy of $3,655 and that a Sub-Committee be appointed by the Chairman to consider whether any action might be necessary to reduce the loss for the remainder of the year and what subsidy will be necessary due to the earlier closing of the Dining Room this year.

**INVESTMENT AND BORROWING POLICY**

The Balance Sheet as at February 28th, 1977, showed cash and term deposits of $3,139,000, of which $1,182,000 pertains to Errors and Omissions Insurance Fund. The remaining amount of $1,957,000 is forecast to diminish during the remaining four months of the financial year as expenses exceed receipts in this period.

Assuming that some small part of the building renovations will be made and paid for prior to June 30, 1977, an estimate of cash and deposits at that time is $1,200,000.

As indicated previously, the building renovation programme together with the continuation of the fence reconstruction will exhaust cash resources and result in bank borrowing in the financial year 1977/78. It is expected that this borrowing will not exceed $1,000,000 but the amount depends on the actual timing of the construction programme.

At the same time, the Errors and Omissions Insurance Fund is expected to have substantial resources. An estimated

$2,500,000 is likely to be available for investment by mid-1977. Of this it appears that the following amounts could be invested for the period stated:

| | |
|---|---|
| $ 500,000 | 6 months |
| $ 500,000 | 1 year |
| $1,500,000 | Long term |

The Committee recommended:

1. That funds from Errors and Omissions Insurance Fund be segregated from the General Fund;
2. That the Secretary be authorized to make an application for borrowing from the Canadian Imperial Bank of Commerce as required to meet budgeted commitments up to a maximum of $1,000,000;
3. That the bank be asked to determine whether they can advise on an investment policy to be followed in connection with the Errors and Omissions Insurance Fund.

**COMPUTER**

The computer supplier has made available a software package known as FIND 2. This package has been used on an experimental basis and proved of value. Its main purpose is to solve statistical questions and it has produced an analysis of membership. This simple analysis is currently being further broken down to provide corresponding statistics for each County Association.

Apart from statistical analysis, FIND 2 enables members records to be selected individually or in groups to satisfy particular criteria. This will enable the Lawyer Referral Service to be operated using the computer system instead of a card index.

Cost of the package is a monthly licence fee of $105.00 which the Committee was asked to approve.

*Approved*

## LIBRARIES AND REPORTING COMMITTEE

*County Library Grants*

The Chief Librarian presented a memorandum listing those law associations which have sent in their Annual Returns for 1976 and setting out the amounts of the grants to which they

appear to be entitled under the Regulation in 1976 and 1977. The Libraries and Reporting Committee considered and approved this memorandum at its meeting on 10th March, 1977, subject to the approval of this Committee.

*Approved*

**LEGAL EDUCATION COMMITTEE**

*Bar Admission Course – Tuition Fees 1977-78*

A schedule showing a summary of the financial position of the Bar Admission Course for 1975/76, 1976/77 and 1977/78 was before the Committee.

The Committee recommended approval of the recommendation of the Legal Education Committee that the fee for the teaching period of the Bar Admission Course be increased effective at the beginning of the teaching term in September 1977.

**THE REPORT WAS ADOPTED**

. . . . . .

**UNFINISHED BUSINESS**

At Convocation on Friday, 18th February, 1977 the Report of the Special Committee on Convocation and Election of Benchers and the Report of the Sub-Committee (Discipline) on Discipline Procedures in Convocation were stood over for consideration together. Time did not permit consideration of these Reports and they were deferred for consideration at the April Convocation.

. . . . . .

**LEGAL AID COMMITTEE–Mr. Bowlby**

Mr. J.D. Bowlby, Chairman, presented the Report of the Legal Aid Committee of its meeting on Wednesday, 2nd March, 1977.

The following were present: John D. Bowlby, Q.C., Chairman, and Messrs. Cherniak, Ferrier, Mrs. Fleming, Messrs. Hamer, Harris, Jones, Lamb, Levinter, Lewis, Montgomery,

Ogilvie, Shaffer, Mrs. Smyth.

A. C. Whealy, Solicitor, Toronto, was in attendance as an observer from the Criminal Lawyers Association.

Also in attendance by special invitation was John Weisdorf, Q.C., Director of Duty Counsel, Old City Hall, Toronto.

**REPORT OF THE DEPUTY DIRECTOR**

*(a) Finance*

The Director's report for the ten months to January 31, 1977, indicates that the Legal Aid Fund has spent $249,000 less than net budgeted expenditure. The following summarizes the Fund's position for the first ten months of this fiscal year:

| **Under budget** | $ | $ |
|---|---|---|
| Fees and disbursements: | | |
| Duty Counsel | 172,000 | |
| Criminal | 95,000 | |
| Civil (over) | (166,000) | |
| Advice | 2,000 | |
| | 103,000 | |
| Community clinics | 44,000 | |
| Area Office costs | 34,000 | |
| Administrative costs | 64,000 | 245,000 |
| Add: Miscellaneous income in excess of budget | | 37,000 |
| | | 282,000 |
| Deduct: Client contributions and costs under budget | | 33,000 |
| Net expenditure under budget | | 249,000 |

At January 31, 1977, there was a balance of $671,947 in the Fund.

*(b) Statistics*

The following table compares reported activity for the ten month period ended January 31,1977, with the same ten month period in the previous fiscal year:

| | *10 Month Period Ended* | | *% Change from* |
|---|---|---|---|
| | *Jan. 31, 1977* | *Jan. 31, 1976* | *Last Year* |
| Informal Applications | 79,432 | 77,647 | + 2.3 |
| Applications for Certificates | 84,481 | 89,066 | – 5.1 |
| Refusals | 26,247 | 23,391 | + 12.2 |
| Certificates issued | 63,177 | 71,874 | – 12.1 |
| Persons assisted by Duty Counsel | 132,634 | 116,199 | + 14.1 |

### *(c) Write-Offs*

George E. Wallace, Vice-Chairman, approved the write-off of the following total of amounts due to the Legal Aid Fund: $10,010.57.

## REPORT OF LEGAL ACCOUNTS OFFICER

*Activity*

| | *1976/77 Fiscal Year* | | *1975/76 Fiscal Year* | |
|---|---|---|---|---|
| | **Month Of February** | **11 Months to Feb. 28** | **Month of February** | **11 Months to Feb. 28** |
| Accounts on hand at beginning | 5364 | 5087 | 5130 | 8839 |
| Accounts received | 5210 | 58299 | 5630 | 55907 |
| Total Accounts to be processed | 10574 | 63336 | 10760 | 64746 |
| Less: Files Cancelled | 34 | 403 | 39 | 330 |
| Accounts Processed | 4482 | 56875 | 5064 | 58759 |
| Balance | 6058 | 6058 | 5657 | 5657 |

The above figures do not reflect accounts for Interim Disbursements and Supplementary Payments.

## 10TH ANNIVERSARY – ONTARIO LEGAL AID PLAN

The Committee reviewed progress reports from Professor Allan Linden and Mr. John Sheeler on the preparations for events marking the 10th anniversary Legal Aid workshop and dinner which are tentatively planned for Thursday, May 26th.

Professor Linden's draft workshop agenda was reviewed. The Legal Aid workshop will be held at Osgoode Hall which will mean no expense to either the Law Society or the Government.

The Committee recommended that the Law Society contribute 50% of the costs involving the dinner and that the Government of Ontario match the Law Society's contribution. The Committee was of the opinion that the anniversary dinner should be jointly sponsored by the Government of Ontario and by the Law Society since they both shared in the development of the Plan.

The Chairman wrote The Honourable R. Roy McMurtry, Q.C., on March 2nd, 1977, enquiring whether the Government would, in fact, match the contribution proposed by the Law Society. The Chairman indicated that the plans had reached the stage where clear decisions had to be made and requested the Attorney General to confirm the Government's participation before Convocation on March 18th.

**STAFF APPOINTMENTS**

The Committee approved a recommendation of the Chairman and the Director of Legal Aid, that Russell W. Hall, C.A., formerly Assistant Controller, be appointed Controller of the Plan.

Mrs. Annette Vaughan, formerly of the Canadian Environmental Law Association, has been appointed Clinical Liaison Officer, with the approval of the Clinical Funding Committee. Her responsibilities will encompass the monitoring of clinical programmes and the provision of support assistance to those programmes with a view to the uniform development of this aspect of the delivery of legal aid services.

**LEGAL AID COMMITTEE MEMBERSHIP**

Mrs. Annette Vaughan resigned from the Legal Aid Committee in view of her appointment as a Clinical Liaison Officer.

**STUDENT LEGAL AID SOCIETIES**

For the fiscal year 1976-77, the funds allocated for assistance to the six Student Legal Aid Societies totalled $126,000. Of this sum $102,000 has already been distributed in six equal amounts of $17,000 each, leaving a balance of $24,000 to be finally distributed.

The Criteria Committee of the Student Legal Aid bodies has agreed upon the final distribution of this remaining balance of $24,000 as follows:

| | |
|---|---|
| University of Toronto | $5,726.00 |
| University of Ottawa | $8,286.00 |
| Queen's University | $5,404.00 |
| Osgoode Hall Law School | $3,904.00 |
| University of Western Ontario | $ 680.00 |
| University of Windsor | Nil |
| | $24,000.00 |

**LEGAL AID PERSONNEL – CHARLES CARLOW REID**

The Committee requested that the Plan record the death of Charles C. Reid, Civil Appeals Co-ordinator of the York County Office, and that his passing be reported to Convocation.

Mr. Reid over the years made a great contribution to the development of the Plan and earned the respect and esteem of those associated with him. The Committee requested that a letter be sent to his family expressing the Law Society's condolences.

## AREA COMMITTEES

Section 4 (1) of The Legal Aid Act provides that the Law Society may appoint a Legal Aid Committee for an area.

The Committee recommends the following be appointed as members of the Area Committees in:

**Brant County**

J. A. Purcell, solicitor, Brantford.
Robert Moore, Alderman, Brantford.

**Waterloo District**

Miss Barbara Foell, solicitor, Cambridge-Preston.
Mr. Charles Wilson, Vice-Principal, Galt Collegiate Institute, Cambridge-Galt.
Father Harold Smith, priest, St. Joseph's Parish House, Kitchener.
Mrs. Barbara Scodras, K-W Social Planning Council, Kitchener.
Mr. H.W. Snyder, solicitor, Kitchener.
Mr. Robert Reilly, Assistant Crown Attorney, Kitchener.

**RESIGNATIONS**

**Waterloo District**

D. R. Lisso, solicitor, Kitchener.
Rev. G. R. MacDonald, Minister, St. Andrews Presbyterian Church, Kitchener.
P. Speyer, Assistant Crown Attorney, Kitchener.
Mrs. M. J. Mewshinney, Alderman, Waterloo.

**THE REPORT WAS ADOPTED**

. . . . . .

## DISCIPLINE COMMITTEE (Continued)

### COMPENSATION FUND SUMMARY

Mr. J.D. Carnwath, Vice-Chairman, presented the Compensation Fund Summary for the period ended 28th February, 1977.

### COMPENSATION FUND

**For the Period 1st July, 1976 to 28th February, 1977**
**(8 months)**

| | |
|---|---|
| TOTAL RECEIPTS | $ 329,116.44 |
| TOTAL DISBURSEMENTS | $ 162,470.95 |
| EXCESS OF RECEIPTS OVER DISBURSEMENTS | $ 166,645.49 |
| BALANCE OF FUND at beginning of period | $1,486,468.30 |
| BALANCE OF FUND at end of period | $1,653,113.79 |

### RESUME OF GROSS CLAIMS OUTSTANDING

| | |
|---|---|
| CLAIMS RECEIVED and in the course of being processed as of 28th February, 1977 | $3,399,543.98 |
| TOTAL PAID to 28th February, 1977 from the commencement of the Fund on account of 963 claims of 105 former solicitors | $3,672,462.12 |

**THE SUMMARY WAS RECEIVED**

. . . . . .

## PROFESSIONAL CONDUCT COMMITTEE–Mr. Cooper

Mr. A.M. Cooper, Chairman, presented the Report of the Professional Conduct Committee of its meeting on Thursday, 10th March, 1977.

The following members were present: Messrs. Cooper (Chairman), Kellock (Vice-Chairman), Brulé, Carnwath, Strauss, Mrs. Sutherland and Mr. Tobias.

The three items appearing on this report formed the Committee's February report to Convocation. These items were referred back to the Committee for various reasons.

1. The first item concerned a lawyer who had written to the Committee advising that he is a member of the Federation of Chinese Canadian Professionals – Legal Section. This Federation is a non-profit organization of various professions whose aims are to promote cultural activities to provide information and to promote understanding within the Chinese Canadian Community and with the Canadian public. He went on to state that the Legal Section is comprised of some 15 members, all of whom are also members of the Law Society. The 15 members comprise all of the known solicitors of Chinese origin engaged in private practice or with corporate and government bodies within the Metropolitan Toronto area. As part of its programme, the Legal Section plans to start in the fall a legal aid clinic for the Chinese Canadian Community of Toronto. The clinic would be held one night per week in conjunction with the University of Toronto Settlement House. The clinic would be staffed by one member each week on a rotating basis. To date, some 8 members of the Legal Section have expressed interest in participating in such a programme. The clinic would provide primarily an advisory service for the Chinese Canadian Community providing information as to what social, government and legal agencies were available to the individual. Any legal advice or service performed at the clinic would be on a gratuitous basis. If the individual appeared to require the services of a lawyer, he would be advised to retain one to follow through on the problem. A notice of such a clinic would be published in the Chinese language newspapers. It was brought to their attention that many individuals would require the services of a lawyer. Inevitably the members would be asked to recommend one, especially one who was fluent in the Chinese

language. The members agreed that although no solicitor or law firm would be recommended, a list of all bilingual practitioners would be made available to any individual upon request. The list would include all known solicitors practising in the Metropolitan Toronto area who are fluent in the Chinese language and who desired to be placed on the list. The list would not be limited to members of the Federation or to those who participate in the clinic.

He asked the Committee the following:

1. Whether it is proper for any member of the Law Society to participate in such a clinic on a gratuitous basis.
2. Whether it is proper for a member to permit his name to appear on a list of lawyers who hold themselves out as being bilingual in the English and Chinese languages and which list would be available to the public upon request.

A Sub-Committee composed of Messrs. Bowlby (Chairman), Brulé and Carnwath was appointed to consider these questions. The Committee adopted the Sub-Committee's opinion that it is in order for members of the Federation of Chinese Canadian Professionals – Legal Section to deliver legal services on a voluntary basis to the Chinese Canadian Community. In order that there be no confusion with the Ontario Legal Aid Plan this service should not be called a "Legal Aid Clinic". As an alternative it is suggested that it would be in order to refer to the service as a "Legal Clinic" or "Community Clinic". The Committee also agreed with the Sub-Committee that it would not be proper for members of the Legal Section of the Federation to permit their names to comprise a list of lawyers who hold themselves out as being bilingual in the English and Chinese languages which list would be available to the public upon request. The Committee recommended that consideration be given to the expansion of the Lawyer Referral Service to include information as to the languages spoken fluently or adequately by lawyers participating in the Service so that such information could be made available to the public.

The Minutes of Convocation showed; firstly, that it was moved and seconded that this item be amended by striking out

the second last sentence and substituting therefor: The Committee is of the view that it would be proper for members of the Society to permit their names to comprise a list of lawyers who hold themselves out as being bilingual in the English and any other languages, which list would be available to the public upon request; and, secondly, that it was moved, seconded and *carried*, that this item be referred back to the Committee.

The Committee, on reconsidering this matter, was of the opinion that it would not be improper for members of the Legal Section to permit their names to comprise a list of lawyers who hold themselves out as being bilingual in the English and Chinese languages provided that all members of the profession who, in addition to English speak Chinese, are entitled to have their names on that list.

2. The second item dealt with a solicitor enquiring as to whether there were any ethical improprieties in a proposed business arrangement between solicitors of his firm who are licensed to practise as mortgage brokers and a member of the public who until recently had been working as a mortgage agent for another mortgage broker. A Sub-Committee composed of Mr. Kellock as Chairman and Messrs. Carnwath and Strauss was appointed to consider this enquiry in depth.

3. The third item appearing in last month's report was as follows:

A lawyer has been asked to appear on a local community television station as a host on an open line programme. The purpose of the programme would be to discuss legal matters of interest and to answer questions concerning such matters that could be telephoned to the station. The programme would follow a simple format of a host with a lawyer guest who restricted his practice to the particular field being discussed on a given evening. The station would prefer to use one host for all the shows to give it continuity. They would also want the host to be a lawyer who could provide answers to questions asked with some credibility as well as a sufficient knowledge of the subject to generate an intelligent and hopefully, an enlightening discussion. The programme would be originally designed to run for six to ten weeks. If it proved popular it would be extended

for an undetermined duration. The lawyer asks whether his partaking as host in such a programme would violate any rules of the Law Society and further whether guest lawyers could appear and be introduced as particularly knowledgeable in a given field or as restricting their practice to the particular field of discussion.

The Committee advised that in its opinion there would be nothing objectionable in the lawyer in question making a casual appearance as one of the lawyers to be interviewed but it would be improper for him to host the series on a continuing basis if he were described when so doing as a lawyer. The question as to how guest lawyers should be described will be considered at the March 1977 meeting of the Committee.

The Minutes of Convocation showed that it was moved, seconded and *carried* that this item be referred back to the Committee to consider both host and guest appearances.

The Committee in reviewing this matter reached the opinion that it would not be improper for the host or any lawyer appearing as a guest on the programme to be described as a lawyer.

Following the Committee's meeting it was drawn to the Chairman's attention that the lawyer referred to in Item 3 of this report also asked whether lawyers who are appearing as guests on the programme could be introduced as being particularly knowledgeable in a given field or as restricting their practice to the particular field of discussion. The Chairman, mindful of the provisions of Ruling 24 of the Rules of Professional Conduct, was of the opinion that a lawyer could be described on the programme as restricting his or her practice to the particular field under discussion only if the lawyer does in fact so restrict.

**THE REPORT WAS ADOPTED**

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**LIBRARIES AND REPORTING COMMITTEE–Mr. Seagram**

Mr. N. MacL. Rogers, Vice-Chairman, presented the Report of the Libraries and Reporting Committee of its meeting

on Thursday, 10th March, 1977.

The following members were present: Messrs. Seagram (Chairman), Salhany, Strauss and Mrs. Tait, and Miss A.R. McCormick.

## GREAT LIBRARY

### GIFTS AND DONATIONS

The following donations to the Great Library have been received:

| | |
|---|---|
| The Estate of Miss Rosemary Hodgins, Barrister | 25 volumes, including 20 texts and 5 copies of government documents |
| The Estate of K.D.M. Spence, Q.C., Hudson, Quebec | 22 volumes of Statutes, Reports, Digests and Texts |
| Anonymous | 10 volumes of the Statutes of Ontario |

*Noted*

### AMERICAN ASSOCIATION OF LAW LIBRARIES ANNUAL CONVENTION

The Chief Librarian requested permission for her and six members of her staff to attend the Annual Convention of the American Association of Law Libraries in Toronto, June 25-30, 1977. Two of the programmes will take place in Osgoode Hall, on Saturday, June 25, 1977 and the staff of the Great Library will be participating therein. The Committee recommended that approval be given, including payment of expenses.

### BARRISTERS' LIBRARY, 145 QUEEN STREET WEST

The Secretary reported that he had spoken to Mr. Heeney concerning the air conditioner-humidifier to protect the books at the above library. Mr. Heeney stated that it was essential in his opinion that a unit be purchased. The Secretary was instructed to obtain a letter from Mr. Heeney stating that the unit was essential to protect the books at the above library and subject to the approval of the Finance Committee this purchase was *approved.*

## COUNTY LAW LIBRARIES

### ANNUAL GRANTS

The Associations listed below have sent in their Annual Returns for the year 1976. The amounts of the grants to which they are entitled under the Regulation in 1976 and 1977 are as follows:

| | *1976* | *1977* |
|---|---|---|
| Brant | $2,000.00 | $2,000.00 |
| Carleton | 2,000.00 | 2,000.00 |
| Haldimand | 795.00 | 795.00 |
| Hamilton | 2,000.00 | 2,000.00 |
| Kenora | 906.67 | 1,145.00 |
| Kent | 2,000.00 | 2,000.00 |
| Lindsay | 1,185.00 | 1,075.00 |
| Middlesex | 2,000.00 | 2,000.00 |
| Northumberland | 1,536.67 | 1,536.67 |
| Simcoe | 2,000.00 | 2,000.00 |
| Waterloo | 2,000.00 | 2,000.00 |
| Welland | 2,000.00 | 2,000.00 |

*Approved*, subject to the approval of the Finance Committee.

## REPORTING

### CANADA LAW BOOK LIMITED CONTRACT – DELAY IN PUBLICATION OF REASONS FOR JUDGMENT

The Secretary submitted a questionnaire which was to be sent to the profession concerning the Ontario Reports and other relevant matters. The Secretary was instructed to send the questionnaire with an amendment that it should be returned to the Law Society by May 16, 1977. The Secretary was also instructed to include some questions concerning the use of County Law Libraries, subject to the approval of the Sub-Committee Chairman.

### BLUE PAGES

The Secretary reported that he had received notification

from The Honourable Mr. Justice Arnup that the Summaries of Reasons for Judgment (blue pages) would be prepared up to and including February 25, 1977. Thereafter the blue pages will be discontinued on a temporary three months' basis as the judges of the Court of Appeal will be using the summaries prepared by Canada Law Book Limited.

**THE REPORT WAS ADOPTED**

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## UNAUTHORIZED PRACTICE COMMITTEE—Mr. White

Mr. P.B. Tobias, Vice-Chairman, presented the Report of the Unauthorized Practice Committee of its meeting on Thursday, 10th March, 1977.

The following members were present: Messrs. White (Chairman), Cass, Furlong, Seagram, Strauss and Tobias.

1. The Committee recommended that the account of counsel retained by the Law Society be approved as submitted.

2. The Secretary reported that he was in receipt of a letter from a beneficiary of an estate which a Notary Public was looking after. The beneficiary requested that the Law Society assist since the Notary Public was refusing to complete the administration of the estate. The Secretary was instructed to write to the beneficiary and suggest that the beneficiary retain a solicitor and that solicitor can contact the Law Society. The Secretary was also instructed to send the beneficiary's letter to the Attorney General who is responsible for Notaries Public.

3. The Secretary reported that he was in receipt of a letter from the Secretary of the Canadian Institute of Chartered Accountants which enclosed an advertisement indicating that a former income tax assessor was completing legal forms, income tax forms and income tax appeals. The Secretary was instructed to write to the Secretary of the Canadian Institute of Chartered Accountants to ascertain whether the institute is investigating this individual and if any more evidence of unauthorized practice of law has come to his attention.

4. The Secretary reported that he had received a complaint from a recipient of Legal Aid who had taken a Legal Aid Certificate to an individual who indicated that he would give advice concerning a foreclosure action but refused the certificate. He subsequently sent a bill for $100. The Secretary was instructed to retain counsel to carry out an investigation and if there is sufficient evidence to commence a prosecution under Section 50 of The Law Society Act.

5. The Secretary reported that he was in receipt of a letter on the letterhead of a Counsellor at Law. The Secretary was instructed to retain counsel to carry out an investigation into the activities of this individual and if there is sufficient evidence of a breach of Section 50 of The Law Society Act to commence a prosecution.

6. The Secretary reported that he had received a letter complaining about a letter from a law student which had been written on the letterhead of Problem Central. It appeared that Problem Central was directed by a solicitor. The Secretary was instructed to write to the Director of Problem Central and suggest to him that letters should not be signed by law students. The Secretary was also instructed to write to Ontario Legal Aid to ascertain if Problem Central receives funds from Legal Aid.

**THE REPORT WAS ADOPTED**

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**SPECIAL COMMITTEE ON**
**J. SHIRLEY DENISON BEQUEST**

Mr. J.C. Pallett presented the Report of the Special Committee on J. Shirley Denison Bequest of its meeting on Thursday, 10th March, 1977.

The following members were present: Messrs. Pepper (in the Chair), Cass and Kellock.

The Committee considered and approved one application for a grant.

**THE REPORT WAS ADOPTED**

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**CONVOCATION ROSE AT 5:10 P.M.**

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Read in Convocation and confirmed 20th May, 1977.

W. GIBSON GRAY

Treasurer

THE LAW SOCIETY OF UPPER CANADA

# Minutes of Convocation

Volume 2 Number 2

Members wishing to receive the Minutes of Convocation are asked to complete the form below and send it to the Society.

---

The Secretary,
The Law Society of Upper Canada,
Osgoode Hall,
Toronto, Ontario
M5H 2N6

I would like to receive the Minutes of Convocation at the address below:

Name .....

Address .....

.....

.....

# MINUTES OF SPECIAL CONVOCATION
## (ABRIDGED)

**Ottawa, Friday, 25th March, 1977**
**2:30 p.m.**

Prior to Convocation the Treasurer and Benchers had as their guests for luncheon at the Rideau Club in Ottawa Mrs. Ruth M. Bell and The Honourable Richard A. Bell, Q.C.; The Honourable G.T. Evans, Chief Justice of the High Court of Justice for Ontario; The Honourable Madame Justice M.M. Van Camp of the High Court of Justice of the Supreme Court of Ontario; His Honour Judge Peter A. Macdonald, Senior Judge, Judicial District of Ottawa-Carleton, and Mrs. Macdonald; Dean H.A. Hubbard, Faculty of Law, University of Ottawa; Mr. G.W. Collins-Williams, Q.C., Director of Legal Education, and Mrs. Collins-Williams; Mrs. E. Rachael Knox, Assistant Director, Bar Admission Course; Mr. J. Patrick Watson, Assistant Director, Bar Admission Course, Ottawa; Mr. G.E. Beament, Q.C., and Mrs. Beament.

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Following luncheon the Treasurer, the Benchers and their guests proceeded to the National Arts Centre for the Call to the Bar Ceremonies of the 130 graduates of the Eighteenth Bar Admission Course and one graduate of the Sixteenth Bar Admission Course who had applied to be called on Friday, 25th March, 1977.

**PRESENT**

The Treasurer (Mr. W. Gibson Gray) and Messrs. Brulé, Cass, Chadwick, Cooper, Fennell, Finlayson, Henderson, Pepper, Mrs. Tait, Messrs. Thom, Tobias and Willoughby.

The body of the auditorium was occupied by the 131 graduates of the Bar Admission Course, their families and friends.

The Treasurer introduced Mrs. Ruth M. Bell, former Dean of Political Science, University of Waterloo and present Chairman, Committee on the Status of Women (Canadian Commission for UNESCO), who addressed the graduates.

. . . . . .

## PRESENTATION OF APPOINTMENTS

Mr. G.W. Collins-Williams, Director of Legal Education, presented the recipients of appointments to the Treasurer.

The Treasurer congratulated the following who had been given special appointments:

Law Clerks to The Honourable G.T. Evans, Chief Justice of the High Court of Justice for Ontario: Michael Allan Fredricks; Mark George Peacock

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## CALL TO THE BAR

Mr. P.B.C. Pepper, Chairman of the Admissions Committee, presented to the Treasurer 130 candidates for Call to the Bar as follows:

**EIGHTEENTH BAR ADMISSION COURSE 1976-77**

**CANDIDATES FOR CALL TO THE BAR ON FRIDAY, 25TH MARCH, 1977**

Jean-Francois Aube
Leslie Anne Ault
Alexander Adam Babits
Gary Robert Barnes
Michael Harold Barnhart
Barry Orine Bates
Raymond Anton Baumgarten
Sheila Madeleine Bayne
Judith Clarke Beaman
Remi-Michael Beaupre
Richard Paul Begin
Ezra Jack Beinhaker *
John Jerald Bellomo
Michael Bendel
Kenneth James Bennett
Robert Frank Benson
Stuart Bernstein
Colleen Ann Brady
Bruce Thomas Brunet
William Parnell Bryson
Norman Milburn Cameron
Dona Louise Campbell
Russell Lynn Campbell
John Bruce Carr-Harris
Louise Viviane Charron
Brian Arthur Chatwin
Ronald Chung-kuo Cheng
David Christopher Clancy
Hugh Henry Mills Connelly
Hugh Robert Cowan
Brian Edward Crockett
Robert Vernon Crozier

*Transfer, Quebec

Colombe Marie Daigneault
Frederick Robert Peter Delaney
Norman Terrance DeMeza
James Edward Dewar
Robert Michael Hugh Dixon
Michael David Edelson
Graham Charles Eglington
Evan Robert Elkin
Brian Richard Evernden
Adrien Lawrence Filion
Susan Jean Finnie
Richard Graham Fitzsimmons
Michael Allan Fredricks
Bruce Andrew Freeborn
Armand Lawrence Gagner
William Andrew Garay
Libby Frayda Gorenstein
Kenneth James Gorman
Joel Sheldon Greenberg
Andre Leo Guay
Joan Marie Guerin
Robert Richard Hahn
Peter Anthony James Hargadon
Lynn Howard Harnden
Robert Paul Harper
Bruce Gary Hilchey
Ronald Patrick Hogan
Christopher James Holman
Eric Lorne Honey
William James Honeywell
Gerald Michael William Hughes
Thomas Ross Hunter
Louis-Marc Gilles Joseph Hurtubise
Velon Leo John
Calvin Gordon Johnson
Thomas Clarence Joseph Joy
David Ross Keilty
Thomas Robert Kelly
Irene Rose Anne Kmet
Ronald Stanley Kosie
Michael Steven Krugel
Lucien Anthony Kurata
Gabriella Irene Lang
James Stuart Langford
Pierre Theodore Legault
Catherine Helen MacLean
Elizabeth MacLennan
Francis Edward MacMillan
William John Manuel
Margaret Jean Mason
Melez Massey
Stewart William McAlpin
Thomas George McCauley
Archibald Duncan McDonald
John Norman McFarlane
Brian Paul McGivern
James Roy McIninch
Kenneth Scott McLean
David Reed Melitzer
Paul Allan Millican
Barbara Ann Mintz
James Charles Moore
Daniel Patrick Murphy
Gregory Edward Murphy
William Ormond Murphy
Robert Charles Nuttall
James Louis O'Brien
Terence Gordon O'Hara
Deen Christine Olsen
Michel Parisien
Lawrence Stephen Pascoe
Mark George Peacock
John Nigel Frederick Pepper
Robert John Phillips
Bram Stanley Potechin
Glenn Edmund Rivard
Michael Vincent Ross
James Christopher Ryan
Kenneth William Sabey
Nancy Agnes Savage
Julia Ann Schwartz
Michael John Siddons
David Charles Silverson
Murray Israel Sklar
John Kenrick Sproule
Andrew Allison Stewart
Douglas Edward Stoltz
Robert Baylis Sutherland-Brown
Bruno Mario Toneguzzi
Andrew Trotta
William Lloyd Tymchyshyn
George Emil Van Den Bosch
Brenda Mary Vice
Donald John White
Brian Alan Whyte
John Craig Wilson
John Herbert Wilson
Giuseppe Zito

and presented to the Treasurer one candidate for Call to the Bar as follows:

**SIXTEENTH BAR ADMISSION COURSE 1974-75**

**CANDIDATE FOR CALL TO THE BAR**
**ON FRIDAY, 25TH MARCH, 1977**

Gregory Alexander Van Koughnett

The Treasurer conferred upon the candidates the degree of Barrister-at-law and called them to the Bar of Ontario.

The Treasurer addressed the new members of the Bar and congratulated them on behalf of The Law Society of Upper Canada.

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## CONVOCATION ADJOURNED AT 3:30 P.M.

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Following Convocation a Special Sitting of the Supreme Court of Ontario was convened in the National Arts Centre with The Honourable G.T. Evans, Chief Justice of the High Court of Justice for Ontario, presiding.

Mr. P.B.C. Pepper presented the candidates to the Chief Justice of the High Court, before whom they took the usual oaths and acknowledged their signatures on the rolls in the presence of the Court.

The Chief Justice of the High Court then addressed the new Barristers.

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At the conclusion of the formal proceedings the new Barristers, their families and friends were entertained by the Treasurer and Benchers at a reception in the National Arts Centre.

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Read in Convocation and confirmed 20th May, 1977.

W. GIBSON GRAY
Treasurer

## MINUTES OF SPECIAL CONVOCATION
## (ABRIDGED)

**RESUMED – London, Monday, 28th March, 1977**
**2:30 p.m.**

Prior to Convocation the Treasurer and Benchers had as their guests for luncheon at the University Club of London in London His Honour Chief Judge W.E.C. Colter and Mrs. Colter; The Honourable Mr. Justice S.G.M. Grange of the High Court of Justice of the Supreme Court of Ontario; His Honour Judge J.P. Killeen, County Court of Middlesex, and Mrs. Killeen; His Honour Judge G. Glenn Marshman, Provincial Court (Criminal Division), Middlesex, and Mrs. Marshman; Mr. E.F. Conover, Registrar, The Supreme Court of Ontario; Dean D.L. Johnston, Faculty of Law, University of Western Ontario; Mr. G.W. Collins-Williams, Q.C., Director of Legal Education; Mrs. E. Rachael Knox, Assistant Director, Bar Admission Course; Mr. William R. Buchner, Assistant Director, Bar Admission Course, London, and Mrs. Buchner.

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Following luncheon the Treasurer, the Benchers and their guests proceeded to Elborn College, University of Western Ontario, for the Call to the Bar Ceremonies of the 93 graduates of the Eighteenth Bar Admission Course who had applied to be called on Monday, 28th March, 1977.

Last year for the first time in the Society's history a Special Convocation for Call to the Bar took place in Ottawa when 115 graduates of the first Bar Admission Course to be offered in that city were called to the Bar. This year for the first time a Special Convocation was summoned in London to permit the 92 graduates of the first Bar Admission Course to be offered in London to be called to the Bar there.

**PRESENT:**

The Treasurer (Mr. W. Gibson Gray) and Messrs. Carnwath, Finlayson, R.J.S. Gray, Mrs. Legge, Messrs. Pallett, Shepherd, Mesdames Sutherland and Tait, Messrs. Thom and Tobias.

The body of the auditorium was occupied by the 93 graduates of the Bar Admission Course, their families and friends.

The Treasurer introduced His Honour Chief Judge W.E.C. Colter, Chief Judge of the County and District Courts of the Counties and Districts of Ontario, who addressed the graduates.

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## PRESENTATION OF AWARDS AND APPOINTMENTS

Mr. G.W. Collins-Williams, Director of Legal Education, presented the recipients of awards and appointments to the Treasurer.

The Treasurer presented the following prize to:

The Giffen, Pensa Prize for the student obtaining the highest marks in London: Mary Elizabeth Marshman

and congratulated the following who have been given special appointments:

A Law Clerk to The Honourable G.T. Evans, Chief Justice of the High Court of Justice for Ontario: Peter Ramsay Merchant

A Law Clerk to His Honour Chief Judge W.E.C. Colter, Chief Judge of the County and District Courts of the Counties and Districts of Ontario: Christopher Paul Spurgeon

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## CALL TO THE BAR

Mrs. L.L. Legge, Vice-Chairman of the Admissions Committee, presented to the Treasurer 93 candidates for Call to the Bar as follows:

## EIGHTEENTH BAR ADMISSION COURSE 1976-77

### CANDIDATES FOR CALL TO THE BAR ON MONDAY, 28TH MARCH, 1977

William Robert Appleby
Samuel Balsamo
Jeffrey Alan Bear
Douglas Howard Beatty
Larry Michael Belowus
Ronald Earl Beninger
Michael Barry Biderman
Douglas Howard Bovell
Peter Jerome Michael Brennan
Patrick Thomas Dominic Brode
Ian Robert Bruce
Herbert Duncan Bryant
Michael Bernard Burke
Luigi Eugenio Circelli
Robert Murray Clark
Raymond Gary Colautti
Cody Angus Cooper
Barry John Coughlin
Donald Fletcher Dawson
Glenn Thomas Dawson
Luigi Di Pierdomenico*
Patrick Joseph Ducharme
Wayne Donald Eitel
Murray John Elston
Michael Jonathan Epstein
Teresa Lynette Farmer
John David Fischer
James Reginald Fisher
Robert Arnold Vincent Foran
Roger John Gallaway
George Morton Glanville
Michael Dennis Hurst
Stephen Merrick Jarrett
Reino Olavi Kallio
Stephen Joseph Kay
Ronald Alexander Kirby
Wayne Alexander Joseph Lenhardt
Elliot Leslie Lerner
Gary Ronald Livesey
Peter George Lucas
Francis John Mackin
Theodore Jarvis Madison
Mary Elizabeth Marshman
John Charles Marsland
Kathleen Ellin McGowan
Paul Duncan McIntyre
Michael Samuel Mensour
Patricia Elaine Mensour
Peter Ramsay Merchant
Scott Macaulay Merrifield
Gary Robert Merritt
Coulson Vernor Mills
Iris Gisela Haidle Morrison
Ross William Murray
Hugh James Parker
David John Partridge
Douglas William Phillips
Derek John Presse
James Frederick Pugsley
Robert Ernest Reed
Howard John Riggs
Timothy Lionel Robb
Ronald Gordon Robertson
Margaret Anne Robinson
Richard Douglas Rohrer
Norman Ronski
David Dingwall Roy
Gerald Frederic Ruch
Donald Murray Garth Sanderson
Eugene Michael Sawchuk
Brian Douglas Scaddan
Eleanor Mary Schnall
Peter Andrew Scott
Marianne Cecelia Sussex Sinclair
Neil Victor Sinclair
Victor Richard Smith
Christopher Paul Spurgeon
David Edgar Storry
Norman John Stroud-Drinkwater
Ping-Teng Tan
William Earl Taylor
Richard Frederick Tinsley
Ronald Victor Trebb
Paul Joseph Trudell
John Duncan Unsworth
Despina Valassis
Isaac Joseph Van Lange
Rudolph Rezso Vezer
James Dallyn Virtue
Michael Vincent Watters
Edward Martin Werner
Nora Margaret Winter
John Edward Young

*Transferred for Call from BAC, Toronto

The Treasurer conferred upon the candidates the degree of Barrister-at-law and called them to the Bar of Ontario.

The Treasurer addressed the new members of the Bar and congratulated them on behalf of The Law Society of Upper Canada.

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**CONVOCATION ADJOURNED AT 3:30 P.M.**

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Following Convocation a Special Sitting of the Supreme Court of Ontario was convened in Elborn College with The Honourable Mr. Justice S.G.M. Grange, a Judge of the High Court of Justice for Ontario, presiding.

Mrs. L.L. Legge presented the candidates to His Lordship, before whom they took the usual oaths and acknowledged their signatures on the rolls in the presence of the Court.

His Lordship then addressed the new Barristers.

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At the conclusion of the formal proceedings the new Barristers, their families and friends were entertained by the Treasurer and Benchers at a reception in Elborn College.

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Read in Convocation and confirmed this 20th day of May, 1977.

W. GIBSON GRAY
Treasurer

## MINUTES OF SPECIAL CONVOCATION
### (ABRIDGED)

**RESUMED – Toronto, Tuesday, 29th March, 1977**
**2:00 p.m.**

Prior to Convocation the Treasurer and Benchers had as their guests for luncheon in the Benchers Dining Room at Osgoode Hall The Honourable R. Roy McMurtry, Q.C.; The Honourable W.Z. Estey, Chief Justice of Ontario, and Mrs. Estey; Mrs. Neil C. Fraser; His Honour Chief Judge W.E.C. Colter, County and District Courts of the Counties and Districts of Ontario, and Mrs. Colter; His Honour Judge Garth H.F. Moore, Judicial District of York, and Mrs. Moore; His Honour Chief Judge F.C. Hayes, Provincial Courts (Criminal Division) for Ontario, and Mrs. Hayes; Mr. D.H.L. Lamont, Q.C., President, The Lawyers' Club, and Mrs. Lamont; Mr. G.W. Collins-Williams, Q.C., Director of Legal Education, and Mrs. Collins-Williams; Mrs. E. Rachael Knox, Assistant Director, Bar Admission Course.

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Following luncheon the Treasurer, the Benchers and their guests proceeded to the O'Keefe Centre for the Call to the Bar Ceremonies of the 669 graduates of the Eighteenth Bar Admission Course and the three graduates of the Seventeenth Bar Admission Course who had applied to be called on Tuesday, 29th March, 1977.

**PRESENT:**

The Treasurer (Mr. W. Gibson Gray) and Messrs. Bowlby, Carnwath, Carrier, Common, Furlong, Ground, Mrs. Legge, Mr. Linden, The Honourable R. Roy McMurtry, Messrs. Montgomery, Pepper, Rogers, Salhany, Seagram, Mesdames Sutherland and Tait, and Mr. Willoughby.

The body of the auditorium was occupied by the 672 graduates of the Bar Admission Course, their families and friends.

The Treasurer introduced The Honourable R. Roy McMurtry, Q.C., Attorney General for Ontario, who addressed the graduates.

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## PRESENTATION OF AWARDS AND APPOINTMENTS

Mr. G.W. Collins-Williams, Director of Legal Education, presented the recipients of awards and appointments to the Treasurer.

The Treasurer presented the following prizes and scholarships to:

The Treasurer's Medal; The Roland O. Daly Scholarship; The Edwin George Long, K.C., Memorial Scholarship; and The Practitioners Prize in Real Estate:
Joseph Marin

The Law Society Prize for the student obtaining the second highest marks in the Course; and The Edwin George Long, K.C., Memorial Scholarship: Collin Francis Dodd

The Law Society Prize for the student obtaining the third highest marks in the Course: Robert Michael Zarnett

The Law Society Prize for the sutdent obtaining the fourth highest marks in the Course: Benjamin Zarnett

The McCarthy Income Tax Prize (tie): Robert William Lang; Brian Frederick Little; Nicholas John Poppenk; Joseph Marin Steiner; Mickey Milan Yaksich

The Commercial and Company Law Prize: John David Marshall

The Arthur Wentworth Roebuck Award for Family Law:
Michael Edward Thurston

The Criminal Procedure First Prize; and The Vera L. Parsons Prize:
Bonnie Jeyne Wein

The William Belmont Common, Q.C., Prize for Criminal Procedure:
Robert George Keel

The International Academy of Trial Lawyers Prize for Civil Procedure:
Deborah Marjorie Worden

and congratulated the following who have been given special appointments:

Law Clerks to The Honourable W.Z. Estey, Chief Justice of Ontario:
Peter Douglas MacMillan; John David Murphy; Robert Rueter; Anne Lynn Sone

Law Clerks to The Honourable G.T. Evans, Chief Justice of the High Court of Justice for Ontario: Robert George Keel; Lucy Anne Cecchetto; Richard Anthony Lococo; Kenneth Ronald Peel; Yunus Timol

A Law Clerk to His Honour Chief Judge W.E.C. Colter, Chief Judge of the County and District Courts of the Counties and Districts of Ontario:
Deborah Kristin Livingstone

A Law Clerk to His Honour Chief Judge F.C. Hayes, Chief Judge of the Provincial Courts (Criminal Division) for Ontario: Eva Bobbi Ligeti

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## CALL TO THE BAR

Mr. P.B.C. Pepper, Chairman of the Admissions Committee, presented to the Treasurer 669 candidates for Call to the Bar as follows:

## EIGHTEENTH BAR ADMISSION COURSE 1976-77
## CANDIDATES FOR CALL TO THE BAR
## ON TUESDAY, 29TH MARCH, 1977

Lanning Jay Abramson
Gordon Chalmers Adams
Leslie Lee Adams
Douglas Carl Ainsworth
Lloyd Winston Ament
David George Amy
Ross Melvin Anderson
Richard Robert Arblaster
Gregory Jerome Arbour
John Robert Armstrong
William Michael Armstrong
David William Arn
Herbert Thomas Arnold
Thom Warren Arthur
Harvey Joseph Ash
Marie Catherine Rounding Atkey
James Ross Atkinson
John Albert Backus
John Waldo Baerg
Frederick Bruce Bagg
Larry Balaban
Derek Gordon Ball
Lawrence Allen Banack
Clinton Dwight Banbury
Brian Alexander Banfield
Howard Arthur Barends
Bruce Crichlow Barker
Roderick Flavelle Barrett
William Douglas Barrett
William Charles Bartlett
Edward Andrew Bartley
Isaac Basman
Brian Russell Bawden
Thomas Frederick Baxter
David James Beatty
William George Beatty
Kenneth Louis Beaugrand
William John Beckley
Penelope Joan Bell
Steven Bellissimo
Brent Stanley Belzberg
Mordechai Ben-Dat
Richard Louis Bensette
Sheldon Joel Berg
David Abraham Berk
Marvin Michael Bernstein
Marilyn Jane Bevan
Johanne Lisette Bezaire
Dennis Victor Bigham
Michael Charles Birley
Peter Charles Birnbaum
William James Blacklock
Paul Douglas Blanchard
Peter Bruce Bland
Joseph Claude Alphonse Blouin
Robert Anthony Boccia
David Martin Bokofsky
David St. Clair Bond
Ronald Anthony Boratto
Andrew Edward Borins
Murray Roy Borndahl
Paul Christian Bourque
Frank Edward Philip Bowman
James Patrick Boyer
Janet Elaine Bradley
Stephen Miller Bradley
Philip George Bradshaw
Michael Patrick Brady
Daniel Paul Braithwaite
Lawrence Robert Bremner
Susan Joyce Brenner
Alexandre Brooks
Donald Robert Brown
Timothy George Craig Brown
Margaret Anne Browne
Mary Gale Bullas
William Mark Burch
Edward Paul Burns
David James Burnside
David Ellis Burt
Michael Edward Joseph Cahill
Marshall Larry Calzavara
Donald Francis Campbell
Stephen Lawrence Cappe
Harold William Dennis Cares
Linda Maureen Carey
Peter Salvatore Carlisi
Michael William Caroline
Angela Kathryn Carr
William Douglas Tudhope Carter
Garry Morton Cass
Edith Ricky Cassels
Mary Catherine Marguerite Cassidy
Katherine Ann Catton
Lucy Anne Cecchetto
Martin Aaron Ceresney
Michel Charbonneau
Henri Joseph Charlebois
David Cheifetz
Sheldon David Cherner
Stephen Anthony Michael Chernoff
Donald Joseph Chiasson
Eric Wayne Chodak
Gregory Brian Chornyj
Lauri Helen Woodside Christianson
Dana Ross Clarence
Brent Lloyd Claridge
Tyrrell Alan Clark
Ellen Barbara Cohen
Marion Lee Cohen
Allen Richard Collins
John Francis Collins

John Richard Connolly
Edmund Arthur Joseph Conway
John Robert Conway*
Jayne Frances Coons
Glen Reid Copeland
Joseph Carl Copeland
Joseph Cornacchia
Mark Lorne Cosman
James Cecil Crawford
Mary Geraldine Critelli
Eleanore Ann Cronk
John Joseph Crook
Paul James Crowe
Albert Lorne Cunningham
David Alexander Cuthbertson
Terence Dalgleish
Anthony D'Amico
John Stewart Davies
Michael John Davies
Carl Bernard Davis
Faye Eileen Dawson
John Arthur Anrep Deacon
Russell John Deigan
Marvin Jeffrey Dermer
Michael Seraphino De Rubeis
Nancy May Deshaw
John Alfred Desotti
Fernando Dias Costa
Michael Alan Dingwall
Tony Mario Di Poce
Guy Peter DiTomaso
James Herbert Dixon
Antonio Di Zio
Colin Francis Dodd
Allen Doppelt
Emilio D'Ortenzio
Clive Harvey Dove
Daniel Richard Dowdall
Judith Kathleen Doyle
William Francis Doyle
Alexandre Patterson Dufresne
Alan Christopher Dymond
Jeffrey Lloyd Eason
Randall Scott Echlin
David Lloyd Edwards
Harvey Elliot Eidinger
Michael Kert Eisen
Lawrence Alan Enfield
Susan Eng
Kenneth Erik Erickson
Barry Lee Evans
William Richard Henry Fader
Jennifer Gibbs Falkner
Theodore Sumner Farley
Howard Jacob Feldman
Danny William Ferguson

* Transfer, Newfoundland

Albert Dominic Ferranti
Carolyn Elaine Fineberg
Lee Edward Fingold
Richard Avery Fink
Jack Daniel Finkelman
Gordon David Ross Finlay
Richard Philip Firth
Alan Fisher
Ronald Raymond Fiske
Ronald Flom
Louis Norman Florence
Joseph Walter Fodor
Aubrey Joseph Frederick Ford
Patricia Helen Forrest
William Roderick Forsythe
Mark Isaac Fox
David John Franklin
Jean Margaret Fraser
Kathleen Laura Fraser
Gary Michael Freedman
Harry Freedman
Irwin Philip Freedman
Gary Earl French
Gregory Michael Frenette
Clifford Howard Fryers*
Harry Frymer
Frank Anton Gabriel
Marcel Louis Gagnon
John Robert Gale
Edward Alan Garbe
Marshall Jerome Garnick
Leon Gavendo
Lawrence Brian Geffen
Brigitte Juliane Geisler-James
Eugene Paul Gerhart
Allen Carl Gerstl
Eric Gertner
Garry Thomas Gibson
Roy Kent Gillespie
John Stewart Gillies
Stewart Charles Edward Gillis
Stephen Barry Ginsberg
Joram Gold
Lawrence Burt Goldapple
Jack Harvey Goldberg
Kenneth David Goldstein
Marvin Neil Goldstein
Marvin Cohen Gord
Alan Monteith Gordon
Donald James Gordon
Frederick James Gormley
Eric Bryan Gossin
Maxwell Gotlieb
Mark Avrom Gottlieb
Douglas Allan Grace
Bruce Allen Gray

* Transfer, Saskatchewan

Barry Steven Greenberg
Jack Greenberg
Abraham Joel Greenspan
John Davidson Gregory
Marjorie Elizabeth Greville
Mary Ann Griffiths
George Harry Grossman
Isaac Grubner
Joel Stephen Guberman
Lawrence Allan Hadbavny
Kenneth John Hale
Robert Jamieson Halfnight
Adrian Charles Hall
Dana Ormonde Hall
Lynda Anne Haller
Stephen Patrick James Haller
James Bradley Halls
Zeyaul Haque
Nancy Joan Harbin
Patricia Anne Hardman
Charles Alan Harnick
Diane Harris
Gary Howard Harris
Joan Margaret Harrison
James Keith Anthony Hayes
Mark Peter Hebner
Robert David Henry
Milan Herceg
James Douglas Higginson
Stephen Casey Hill
James Stuart Hilton
James Arnold Hitchon
Timothy Owen Hobson
Anna Catharina Hoff
Roger Alan Howson
Gregory Francis Hoy
John Denison Villiers Hoyles
Taras Hrycyna
Robert William Hubbard
David James Hunt
John Peter Huot
Robert Paine Hutchison
Caleb Emmanuel Irish
Ivan Franklin Ivankovich
David Ernest Ivey
Richard William Ivey
Roy Haggart Jackson
Martin Harold Jacobs
Michael Edward James
Robert Gerhard Janzen
Rod Edward Johnston
Brian Wilfred David Jones
Colin Douglas Jones
Gregory Philip Jones
Charles Jordan
Dragomir Stephen Jovanovic
John Alfred Murray Judge
Howard Keith Juriansz
Serge Mark Jusyp
Martin Simon Kalson
Stephen Charles Kamen
Rein Kao
James Joseph Keaney
Robert George Keel
Daniel George Kelly
John Richard Kennedy
Richard Roy Kennedy
James David Linders Kerr
Steven Charles Kerr
Michael Joseph Kierans
David Allen Kinder
Helen Patricia King
Patrick Michael Kirby
Belinda Anne Kirkwood
Irving Kirshenblat
Brent Sheldon Knazan
William Arthur Knights
Paula Susan Knopf
Stephen Kolas
Nadia Stephanie Koltun
Jana Margita Konrads
James Marc Krakovsky
Michael Stephen Krepakevich
George Patrick Krusell
Joel Steven Kuchar
Stanley Kugelmass
Walter Gregory Kuplowsky
Thomas Stephan Kuttner
Gilbert Larry Labine
Myrna Lea Lack
Lisa Germain Lacroix
Kenneth Sherman Laimon
Donald D'Arcy William Lamont
Ann Gertrude Lancaster
Stephen Anthony Landau
Keith Malcolm Landy
Robert William Lang
Ann Lynn Langford
Douglas Drew Langley
Jean Mary Lashley
Josef Simon Laufer
Brian Robert Law
John Mark Lederman
Shing-Kan Wilson Lee
David Ross Lenehan
Barrie Arthur LePitre
Barbara Ellen LeVasseur
Gary Earl Levine
Ivor Levstein
Jeffrey Mark Levy
Harriet Isabel Lewis
William Charles Lifeso

Eva Bobbi Ligeti
Murray Ephraim Lightman
Brian Frederick Little
Carol Elaine McCall Livingstone
Deborah Kristin Livingstone
John Stuart Lockhart
Richard Anthony Lococo
John William Logan
Mary Anne Patricia Logan
Rand Alexander Lomas
John Herbert Loosemore
Ian James Lord
Arthur Edward Lorenz
Patricia Mary Lukasewich
Frances Jennifer Lynch
James Bart Macdonald
Ian Angus MacDonnell
Robert Hugh Cameron MacFarlane
Gavin Alexander MacKenzie
John Alexander MacLennan
Angus John MacLeod
Peter Douglas MacMillan
Helen Christina MacNaughton
Kevin John Mahan
Michelle Christine Mailloux
Casimiro Angelo Maiocco
Jolyn Maitman
Melanie Ann Manchee
Robert Stuart Mandel
Ian Richard Mang
Jeffrey Ronald Manishen
John Fraser Mann
Ronald Kevin Mann
Serafino Mantini
Eduardo Augusto Marcos
Joseph Marin
James Ivan Marini
Edward Robert Marks
John David Marshall
Douglas Bruce Maund
John William May
Paul Douglas Michael Mazza
Paul Vincent McCallen
Elaine Marlene Forbes McCallum
Susan Irene McCallum
Stephen Bennett McCann
Michael William McCarter
Lynn Margaret Isabel McCaw
Ronald Graham McClelland
Robert Fyfe McCreary
Elizabeth Ann McDonald
Stephen Lorne McDonald
Jeffrey Michael McEown
Barry Grant McGee
John David McGibbon
Donna Catherine McGillis
Robin Joseph Stanley McGillis
Ivy Joy McGrath
Anne Ruth Little McIntyre
John William McIsaac
Kenneth William McKenzie
Louise Mabel McKillop
Brian Richard McLellan
Barry Robert McNaughton
John Murray McPherson
Donald Eric Meehan
Peter Meier
Robert Paul Meleg
David Brian Merrick
Mark Steven Michaels
Giulio Michela
Marvin William Mills
Chaim Michael Mitchell
Michael Robert Moher
Larry Hershel Moldaver
Arlene Beth Moore
David Cameron Moore
John Cyrus Moore
Marguerite Ellen Moore
Robert David Morningstar
Frederick Paul Morrison
Mary Susan Morrison
Robert Harkness Morrison
James Thomas Morrow
George Dietrich Mucalov
Robert Bruce Munroe
John David Murphy
Ellen Bushnell Murray
James Lewis Murray
James Melvin Murray
Joseph Samuel Nadel
Irwin Berl Nadler
Wendela Marie Napier
Michael Alan Izumi Nash
Eric George Nazzer
Josef Neubauer
William Lawrence Neville
Robert Geoffrey Peter Newbury
James Ronald Nicholson
Mary Jo Anderson Nicholson
Robert James Nightingale
Thomas Frank Notzl
James Milan Novak
Mark Thaddeus Nowak
Bernard Francis O'Brien
James Merritt O'Connor
John Joseph O'Connor
Carol Rhona Ogden
Brian Paul Thomas O'Marra
John Stephen Daniel O'Neill
James William Orme
Michael James O'Shaughnessy

Francis Patrick Joseph Oster
John Andrew Ostrowski
Albert Joseph Packer
Douglas John Packer
Paul David Paradis
Gladys Irene Pardu
Jack Pasht
Stanley Brian Pasternak
Philip Henry Patterson
Deborah Ann Paul
George Kenneth Samuel Payne
John Wolfgang Joseph Pazulla
Thomas Michael Peacock
John Robert Peddle Jr.
Kenneth Ronald Peel
Mark Edward Penfold
David Edgar Phillips
John Pichelli
Peter Gilles Picherack
Lawrence Alexander Pick
Marilyn Lee Pilkington
Martin Sheldon Pilzmaker
Priscilla Platt
Ronald Joseph Horace Poirier
Thomas Stephen Pongray
Nicholas John Poppenk
Sheila Marlene Porter
Donald Michael Powell
Donald Joseph Prendergast
Linda Carolyn Price
Uriel Menahem Priwes
Keith George Prosser
Francis Thomas Mark Pujolas
Peter John Quirt
Zenonas Raciunas
Louis Radomsky
Wayne Henry Redekop
Robert William Reinhart
William John Renahan
Leo Paul Renaud
Ivan Michael Reynolds
Austin Peter Riley
Patricia Anne Robinson
Ronald Frank Robinson
James Rocca
Sherrill Madith Rogers
Robert Wallace Rogerson
Harvey Michael Rosen
Irving Rosenberg
Paul Larry Rosenberg
Mitchell Brian Rosenblatt
Aubrey Malcolm Rossman
John Rothel
Michael Benjamin Rotsztain
David Allan Rubenstein
Gale Rubenstein
Robert Rueter
Victoria Katherine Russell
Stanley Harvey Rutwind
James Neil St. John*
Barbara Susan Saipe
Joel Michael Saltsman
Terence Howard Saltsman
Enzo Salvatori
Peter Ernest Salvatori
Clarence Lloyd Sarginson
Alison Ann Sawyer
Michael Mark Sax
Elisabeth Antoinette Eujenie Scarff
Klaus Schaefer
Andrea Betty Scharf
Murray Irwin Schecter
Susan Jean Schell
John William Schenk
Harald Schneider
Sharon Lee Schollar
Arnold Schwartz
David Albert Scott
Margaret Ann Cartwright Scott
Murray Alan Scott
Louis Andrew Sebert
Brian David Segal
Murray David Segal
Raymond Gordon Selbie
William Randall Frank Seller
Sirje Sellers
Douglas Errol Semple
Kenneth Ronald Shand
Arthur Lloyd Shapero
Roopnarine Sharma
Terence Gordon Shaughnessy
James Warren Shenkman
Francine Cynthia Sherkin
Brian Allen Sherman
Joseph David Shier
Arthur Seymour Shiff
Hyman Charles Shifman
John William Shipton
Amos Shlosberg
Murray Hugh Shore
William Thomas Short
Leonard Samuel Siegel
Philip Joseph Siller
Michael Jeffrey Silver
Alan Gary Silverstein
Kathryn Eleanor Simmons
John David Simpson
Paul David Slan
Jo-Anne Jacqueline Smith
Kenneth Gregory Smyth
Susan Soloway
Robert Edward Somerleigh

* Transfer, British Columbia

Anne Lynn Sone
John Spina
Eric Fraser Spindler
Paul Douglas Squires
Margaret Anne Stalker
Paula Dolores Stark
Robert Edward Stead
Neil James Francis Steenberg
Gary Stephen Steinberg
Ralph Brian Steinberg
Wayne Arnold Steinberg
Joseph Marin Steiner
Mark Stephen Stenzler
Allan Sternberg
James Kirkpatrick Stewart
Robert Allen Stewart
Irene Stich
David Robert Street
Victoria Marion Faulkner Stuart
Heidi Suter-McEwen
Richard Salter Sutin
Brent William Swanick
Barry William Switzer
Colleen Catherine Swords
Henry Edward Szpiech
Paul Kei Tamaki
Brahm Mark Taveroff
Gerald Evelyn Taylor
Gerard Vincent Thompson
Elizabeth Louise Thomson
William Jerome Thorne
Michael Edward Thurston
Peter Robert Tice
Robert Karl Timberg
Yunus Timol
Douglas Leslie Titus
Alexander Toffoli
Tonu Toome
Robert Clifford Topp
Richard James Trafford
Ira Thomas Traves
Thomas Whitney Troughton
George Arnold Trow
David Hiroshi Tsubouchi
Maureen Lynne Tucker
Aquilante Turingia
Alexander Vasilovich Tyssiak
Marina Ushycky
Arunas Anthony Vale
George Robert Vella
John Zoltan Vertes
Paul Brian Vickery
Ann Robin Vogl
George Vukelich
Charles Wagman
Dorothy Wahl
Stephen Bruce David Wahl
Glen Tadakazu Wakabayashi
Garth David Walkden
Victor Wall
John Hall Wallace
Deborah Lynn Wall-Armstrong
Rodney Gilbert Walsh
George Merritt Ward
Howard Earle Warren
Robert Brooks Warren
Richard Keith Watson
John Robert Weber
Elizabeth Margaret Webster
Kent Lawrence Webster
Ronald Floyd Mervin Weed
Bonnie Jeyne Wein
Thomas Louis Weiss
Peter Reginald Welsh
Lois Anne Welwood
Andrew Alexander Weretelnyk
Allan Ian Wexler
Stanley Whiston
John Maurice Whyte
Harvey John Wiebe
Peter Charles Williams
Samuel Isaac Willoughby
Herman Jan Wilton-Siegel
Martin Elliot Wintraub
Lawrence Allan Wolfman
Lorne Howard Wolfson
Max Wolpert
Caesar Kie Fai Wong
Oscar Choi-Wah Wong
Victor Sun Wong
Kathleen Dorothy Wood
Murray Price Woodcock
Wilfrid George Woodcock
Ann Murdoch Woodruff
Deborah Marjorie Worden
Colin Evelyn Wright
John Douglas Wright
Leslie Jannette Yager
Mickey Milan Yaksich
David Murray Williams Young
Ronald Sichen Yu
Ronald Victor Zaldin
Benjamin Zarnett
Robert Michael Zarnett
Michael Zessner
James John Ziegler
Lech Jakub Zielinski
Peter Thomas Zoldhelyi
John Zych

and presented to the Treasurer three candidates for Call to the Bar as follows:

**SEVENTEENTH BAR ADMISSION COURSE 1975-76**

**CANDIDATES FOR CALL TO THE BAR ON TUESDAY, 29TH MARCH, 1977**

Eric William Gross
Peter Archer Milligan
Mary Jane Mossman

The Treasurer conferred upon the candidates the degree of Barrister-at-law and called them to the Bar of Ontario.

The Treasurer addressed the new members of the Bar and congratulated them on behalf of The Law Society of Upper Canada.

. . . . . .

**CONVOCATION ROSE AT 4:10 P.M.**

. . . . . .

Following Convocation a Special Sitting of the Supreme Court of Ontario was convened in the O'Keefe Centre with The Honourable W.Z. Estey, Chief Justice of Ontario, presiding.

Mr. P.B.C. Pepper presented the candidates to the Chief Justice of Ontario, before whom they took the usual oaths and acknowledged their signatures on the rolls in the presence of the Court.

The Chief Justice of Ontario then addressed the new Barristers.

. . . . . .

At the conclusion of the formal proceedings the new Barristers, their families and friends were entertained by the Treasurer and Benchers at a reception in the O'Keefe Centre.

. . . . . .

Read in Convocation and confirmed 20th May, 1977.

W. GIBSON GRAY

Treasurer

THE LAW SOCIETY OF UPPER CANADA

# Minutes of Convocation

Volume 2 Number 3

Members wishing to receive the Minutes of Convocation are asked to complete the form below and send it to the Society.

---

The Secretary,
The Law Society of Upper Canada,
Osgoode Hall,
Toronto, Ontario
M5H 2N6

I would like to receive the Minutes of Convocation at the address below:

Name .....

Address .....

.....

.....

# MINUTES OF CONVOCATION
## (ABRIDGED)

Friday, 15th April, 1977
10:00 a.m.

**PRESENT:**

The Treasurer (Mr. W. Gibson Gray) and Messrs. Brulé, Bynoe, Carnwath, Carrier, Carthy, Cartwright, Cass, Chadwick, Common, Cooper, Fennell, Finlayson, Furlong, Goodman, R.J.S. Gray, Ground, Henderson, Humphrey, Kellock, Mrs. Legge, Messrs. Levinter, Linden, Lochead, Montgomery, O'Brien, Ogilvie, Pallett, Pepper, Rogers, Seagram, Sheard, Strauss, Mesdames Sutherland and Tait, Messrs. Thom, Tobias, White, Willoughby and Zahoruk.

. . . . . .

**MINUTES**

The Minutes of Convocation of 18th February, 1977, were read and confirmed.

. . . . . .

**NOMINATION FOR TREASURER**

The Secretary informed Convocation that he had received one nomination for the office of Treasurer for the ensuing year: Mr. *W. Gibson Gray,* Toronto.

. . . . . .

**BENCHERS EX OFFICIO**

The Secretary informed Convocation that pursuant to Section 12 (1) 9 of The Law Society Act two Benchers had become eligible to be benchers ex officio. Messrs. *S.E. Fennell* and *W.B. Williston,* of Cornwall and Toronto respectively, were both elected to the Bench in April 1961 and subsequently in 1966, 1971 and 1975. Mr. Fennell has chosen to continue as an

elected Bencher and Mr. Williston has elected to become a Bencher ex officio. Mr. Williston advised the Secretary of his decision by letter dated 1st April, 1977.

. . . . . .

F.J.L. EVANS, Q.C., ELECTED BENCHER

The Secretary reported that he had received a letter dated 6th April, 1977, from Mr. F.J.L. Evans who has been absent from Convocation due to illness. Mr. Evans wished to express his appreciation to Convocation for its gift of flowers and to advise that he hopes to be able to return to Convocation shortly. The Treasurer reported that he had had a pleasant visit with Mr. Evans at his home in Hamilton on 12th April, 1977.

. . . . . .

W.B. WILLISTON, Q.C., ELECTED BENCHER

The Secretary reported that he had received a letter dated 1st April, 1977, from Mr. W.B. Williston together with a framed copy of a letter from Sir Wilfrid Laurier to The Honourable Mr. Justice Falconbridge dated 21st May, 1900. The Secretary has written Mr. Williston thanking him for this gift.

. . . . . .

**APPOINTMENTS TO STANDING COMMITTEES**

It was moved, seconded and *carried* that Mr. *L.S. Willoughby* be appointed a member of the Policy Section of the Discipline Committee.

It was moved, seconded and *carried* that Mr. *J.G.M. White* be appointed a member of the Libraries and Reporting Committee.

. . . . . .

## ADMISSIONS COMMITTEE–Mr. Pepper

Mr. P.B.C. Pepper, Chairman, presented the Report of the Admissions Committee of its meeting on Thursday, 7th April,

1977.

The following members were present: Mr. P.B.C. Pepper, Chairman, Mrs. L.L. Legge, Vice-Chairman, Messrs. Cass, Finlayson, R.J. Gray, Henderson, and Mrs. Sutherland.

**CALL TO THE BAR AND CERTIFICATE OF FITNESS**

**Bar Admission Course**

The following candidate having successfully completed the Eighteenth Bar Admission Course, filed the necessary documents and paid the required fee of $210, applied for Call to the Bar and to be granted a Certificate of Fitness:

Kenneth Sune Gustav Anderson

*Approved*

**ADMISSION OF STUDENT-AT-LAW**

**Bar Admission Course**

One candidate having complied with the relevant Regulations, paid the required admission fee of $101 and filed the necessary papers, applied for admission to the Law Society as a student-at-law in the Bar Admission Course under Regulation 26 (5) as of 1st September, 1976.

*Approved*

**CALL TO THE BAR**

The following were not included in the list of those given formal approval on 18th March, 1977 by the Committee and Convocation for Call to the Bar. Their names were omitted because at the time the list was made up they were not Canadian Citizens though they had fulfilled all their requirements. They became Canadian Citizens in time to be called with their confrères and with the approval of the Treasurer and Chairman of this Committee were called to the Bar and sworn in as solicitors on 29th March. The Committee was asked to ratify this action.

Kenneth Louis Beaugrand
Dennis Victor Bigham
Stephen Anthony Landau
Kevin John Mahan

Barry Grant McGee
Giulio Michela
Philip Joseph Siller

The following were not included in the material approved on 18th March, 1977 by this Committee and Convocation. They have fulfilled all their requirements and permission was granted for them to be called to the Bar with the Eighteenth Bar Admission Course graduates. The Committee was asked to ratify this action.

The following graduate of the Sixteenth Bar Admission Course was called to the Bar in Ottawa on 25th March, 1977:

Gregory Alexander Van Koughnett

The following graduates of the Seventeenth Bar Admission Course were called to the Bar in Toronto on 29th March, 1977:

Eric William Gross
Peter Archer Milligan
Mary Jane Mossman

*Approved*

Before the Call to the Bar ceremony took place on 29th March, 1977, the Society was informed that two candidates, who had been approved on 18th March, 1977, by this Committee and Convocation for Call to the Bar, did not fulfil the requirement of good character, both having been convicted of a criminal offence. The candidates were interviewed by the Secretary and confirmed the information that had been given to the Society. After discussing the matter with the Treasurer and Chairman of this Committee and the Chairman of the Legal Education Committee, the Secretary advised both candidates that they could not be called to the Bar on 29th March, but would be given an opportunity to supply full information to the Admissions Committee and to satisfy the Committee that they met the requirement of good character. The Committee recommended this matter be adjourned to 12th May or earlier if possible.

**DIRECT TRANSFER**

The Committee approved four applications to transfer to practise in Ontario by lawyers from other common law provinces.

**DIRECT TRANSFER FROM QUEBEC**

The Committee considered and approved five applications to transfer to practise in Ontario by lawyers from Quebec.

Two lawyers from Quebec who had applied to transfer to practise in Ontario sought permission to take the teaching portion of the Bar Admission Course in lieu of writing the examinations required by Regulation 4 (2). Both appeared before the March meeting of the Committee and copies of their written submissions were forwarded to all members of the Bench prior to the April Convocation. The Committee advised each applicant that he could proceed under Regulation 4 (2) or 4 (3) but that neither Convocation nor this Committee has discretion to permit them to take the teaching portion of the Bar Admission Course in lieu of writing the comprehensive examination in Common Law.

**THE REPORT WAS ADOPTED**

. . . . . .

## FINANCE COMMITTEE–Mr. Pallett

Mr. J.C. Pallett, Chairman, presented the Report of the Finance Committee of its meeting on Thursday, 7th April, 1977.

The following members were present: Messrs. Pallett (Chairman), Henderson, Ogilvie, Pepper, Sheard and R.F. Wilson.

**ROLLS AND RECORDS**

*Deaths*

The following members have died:

| | |
|---|---|
| Wojciech Marian Casimir Szuldrzynski<br>Sarnia | Called – 22 June 1960<br>Deceased – 6 March 1977 |
| John Alexander Barnet Dulmage, Q.C.<br>Smiths Falls | Called – 16 June 1927<br>Deceased – 6 March 1977 |
| William David Conklin, Q.C.<br>Kingsville | Called – 17 June 1937<br>Deceased – 6 March 1977 |

| | |
|---|---|
| Dougald Herman Sutherland<br>Clarksburg | Called – 15 June 1962<br>Deceased – 8 March 1977 |
| Frank Milton Squires<br>Oakville<br>(Life Member) | Called – 7 November 1922<br>Deceased – 20 February 1977 |
| Frank Hubert Bailey<br>Toronto | Called – 18 May 1939<br>Deceased – 28 March 1977 |

*Appointment as Master*

| | |
|---|---|
| David Hilary Sandler<br>Toronto | Called – 25 March 1966<br>Appointed Master, Supreme Court of Ontario – 23 March 1977 |

*Noted*

**MEMBERSHIP UNDER RULE 50 – RETIRED MEMBERS**

*John Leo Whitney*, of Waterloo, who is sixty-five years of age or over and who is fully retired from the practice of law and other employment, requested permission to continue his membership in the Society at a reduced annual fee of $25.

*Approved*

**ARREARS OF ANNUAL FEES**

Under section 36 of The Law Society Act, if a member fails to pay any fee or levy payable by him to the Society within four months of the date on which payment is due, he is liable for suspension for non-payment. The annual fee for 1976-77 was due on 30th November, 1976. Notices of Fees Due were mailed to the profession on 1st December, 1976. Reminder notices were sent on 11th February and on 24th March, 1977, respectively, to those members in arrears at that time.

It was recommended that those members who are still in arrears on 15th April, 1977 be suspended on that date for a period of one year and from year to year thereafter or until their arrears of fees are paid.

*Approved*

**CHANGE OF NAME**

By an Order of His Honour Judge Waisberg, dated 10th February, 1977, the name of *Dragomir Jovanovic,* a student member, was changed to Dragomir *Stephen* Jovanovic. A copy of the Court Order as well as Mr. Jovanovic's petition were received in the Secretary's Office on 28th March, in time for him to be called to the Bar on 29th March under his new name.

*Donna Coral Allen,* a solicitor in Toronto, requested that her name be changed on the Rolls of the Society to Donna Coral *Cappon,* her married name.

*Approved*

**ARCHITECT'S ACCOUNTS**

The following accounts dated March 2nd, 1977, were before the Committee for approval:

| | |
|---|---|
| Retainer for the year 1976 (supervising building maintenance, repairs and other routine requirements) | $ 600.00 |
| Preparation of drawings, specifications, arranging contracts and supervising various contracts | $5,718.96 |

*Approved*

**COMPUTER**

The Finance Administrator prepared a report dated 31st March, 1977, recommending an enhancement of Computer hardware. If approved, there would be an addition to the monthly rental of $654.

*Approved*

**ONTARIO LEGAL AID PLAN DINNER**

The amount of $20,000 was approved in the current year's Budget for the Annual Meeting. Less than $1,000 was actually spent on the meeting. It has now been proposed that the Society commit $6,000 towards the cost of a Dinner which will mark the tenth anniversary of the Ontario Legal Aid Plan

and the Committee was asked to consider allocating part of the unused Annual Meeting budget.

*Approved*

**APPOINTMENT OF SALARIES SUB–COMMITTEE**

The Committee appointed a Salaries Sub-Committee for 1977 consisting of Messrs. Pallett (Chairman), Pepper, Ground and Henderson.

It was confirmed that the Society will continue to stay broadly within Anti-Inflation Board Regulations, even though this legislation is not applicable. This means that the increases in salaries should not exceed the lesser of 8% or $2,400. Exceptions will be cases where promotion or other additional responsibilities indicate that higher increases should be considered.

**CAR ALLOWANCE**

Benchers and employees who use their own cars for Law Society business are reimbursed at the rate of 18 cents per mile. This rate was approved by Convocation in September 1975.

In view of increasing costs of operating cars, it was recommended that the rate be increased to 20 cents per mile, effective July 1st, 1977.

*Approved*

**LIBRARIES AND REPORTING COMMITTEE**

*Computer Mailing Lists*

The Secretary reported that he had received from Mr. Burnett a copy of his memorandum dated March 22nd, 1977, recommending to the Libraries and Reporting Committee that the Law Society take over its own computer mailing list and produce labels as required for the mailing of the Ontario Reports. The Secretary further reported that the Libraries and Reporting Committee had approved Mr. Burnett's recommendation, subject to the approval of this Committee.

*Approved*

*County Law Libraries –*
*Annual Grants*

The Chief Librarian presented a memorandum listing those law associations which had sent in their Annual Returns for 1976 and setting out the amounts of the grants to which they appear to be entitled under the Regulation in 1976 and 1977. The Libraries and Reporting Committee approved these amounts at its meeting, subject to the approval of this Committee.

*Approved*

**BUILDING COMMITTEE**

The Committee appointed a Building Sub-Committee consisting of Messrs. Pallett (Chairman), Ogilvie and Brulé to sit with the Building Committee from time to time to review the financial aspects of the building renovation programme as it progresses and to report on any cost variances.

**LEGAL EDUCATION COMMITTEE**

The Legal Education Committee at its meeting on April 7th, 1977, recommended that there should be meetings between the Heads of Sections of several of the Bar Admission Course sections and a member of the faculty in each of the law schools engaged in teaching that subject in the LL.B. programme with a view to better co-ordination of such courses. Such meetings should be held in Toronto and would cost approximately $650 per meeting to cover necessary travelling and hotel expenses. Provision of lunch would cost an additional $130 and of dinner approximately an additional $140.

The Committee approved an addition to the Bar Admission Course Budget for the current year of $6,000 to cover the cost of up to six meetings.

**THE REPORT WAS ADOPTED**

. . . . . .

**ARREARS OF ANNUAL FEES – MOTION TO SUSPEND**

It was moved, seconded and *carried* that the rights and privileges of those members who had not paid their annual fees before 22nd April, 1977, be suspended for a period of one year from 22nd April, 1977, and from year to year thereafter, or until their fees are paid.

Of the 97 members whose names were before Convocation on 15th April, 1977, 50 were suspended as of 22nd April, 1977. Of these, 34 were subsequently reinstated. The following are still suspended:

| | |
|---|---|
| John Dean Archer | Toronto |
| Roy Henry Chilton | Toronto |
| Frederic Romeo Cote | Ottawa |
| Bernard James Davies | Edmonton, Alberta |
| Harry Arthur Derderian | Guelph |
| Lorne Edward Goddard | Edmonton, Alberta |
| Kenneth Goodman | Willowdale |
| Gerard Tobias Kelly | Orillia |
| Arthur Harrison Low | Peterborough |
| William Jeffrey Glen McCann | Vancouver, British Columbia |
| Andrew Oryschak | Toronto |
| Thomas Gifford Rankin | London |
| William Howard Stone | United States |
| Catherine Clare Thorpe | Scarborough |
| Mary Lynne Tomlinson | Islington |
| Ryan Yoshy | Hammond |

. . . . . .

**CALL TO THE BAR**

The following candidate was presented to the Treasurer and Convocation and was called to the Bar, and the degree of Barrister-at-law was conferred upon him by the Treasurer:

Kenneth Sune Gustav Anderson

. . . . . .

## DISCIPLINE COMMITTEE—Mr. Lochead

### ANNUAL SUMMARY

Mr. G.H. Lochead, Chairman, presented the Annual Summary of the Discipline Committee for the year 1976.

During the year 1976 the Committee met on 82 different days for the equivalent of 43½ full days. Of this number 5 days were devoted to dealing with Compensation Fund matters. This contrasted with 1975 when the Committee met 28½ days, 6 of which were in connection with the Compensation Fund.

In 1976 as a result of complaints received from the public and members of the profession the Secretariat found it necessary to write to lawyers on 1,587 separate occasions. There are no figures available for 1975.

In 1976 informal investigations, which were generally by way of correspondence, in the number of 1,642 were completed. Approximately 40% concerned either in whole or in part real estate matters, a little over 15% involved litigious matters and close to 15% concerned family law matters. This compares with 1,137 in 1975.

In 1976 there were 34 formal Complaints and 44 Invitations to Attend issued. It must be noted however that 18 Invitations to Attend concerned violations of Ruling 14 of the Rules of Professional Conduct that had been brought to the Society's attention through an amendment to the Form 2 Report. This was the first year that the Report had been expanded to cover borrowing from client situations. In 1975 only 25 formal Complaints and 19 Invitations to Attend were issued.

The following is a comparison of the disposition of matters coming before the Discipline Committee in the years 1975 and 1976:

| | *1975* | *1976* |
|---|---|---|
| Disbarments | 2 | 11 |
| Reprimand in Committee | 12 | 12 |
| Reprimand in Convocation | 2 | 3 |
| Withdrawn | 3 | 0 |
| Not established | 5 | 4 |
| Not proceeded with | 1 | 2 |

The following is a statement of the expenses incurred by the Committee in the course of carrying out its functions:

| | | |
|---|---|---|
| Trusteeship pursuant to Section 43 (1) | $ 17,451.92 | |
| Investigation by Auditors | 80.85 | |
| Investigators | 2,652.49 | |
| Legal Fees and Disbursements | 38,765.24 | |
| Reporters | 8,793.50 | |
| Miscellaneous (witness, conduct money, photocopy, printing, advertising, etc.) | 9,615.54 | |
| Auditing Salaries | 112,099.23 | |
| Administration Salaries | 111,311.52 | |
| Office Salaries | 28,210.98 | |
| Extra Help | 8,857.16 | $337,838.43 |
| Less: Discipline Costs Recovered | | 51,740.11 |
| | | $286,098.32 |

**THE SUMMARY WAS RECEIVED**

. . . . . .

## GENERAL

Mr. Lochead presented the General Report of the Policy Section of the Discipline Committee of its meeting on Thursday, 7th April, 1977.

The following members were present: Messrs. Lochead (Chairman), Bynoe (Vice-Chairman), Cartwright, Cass, Furlong, Kellock and Mrs. Sutherland.

1. It has been drawn to the Discipline Committee's attention that a practice has developed in the profession whereby one member will threaten to report another member to the Law Society with a view to obtaining some sort of action. The Committee believed that this type of conduct should be discouraged and that the profession be so advised by a statement in the Communiqué.

2. *Bank Deposit Certificates*

The Committee's Report to Convocation on 18th March, 1977 was comprised of the following item:

On a recent audit a member of the Society's auditing staff took the position that the relevant sections of the Regulation made pursuant to The Law Society Act would not permit a client's trust funds to be placed in bank deposit certificates without a specific written direction. The lawyer concerned has questioned this interpretation and requested that consideration be given to an amendment so that such deposits would be permitted. Your Committee is of the opinion that the Regulation, as presently drawn, does not permit a client's trust funds to be placed in bank deposit certificates and has instructed the Secretary to so advise the solicitor. The Committee noted that trust funds can be deposited into special savings accounts without the necessity of first obtaining written instructions and suggested that this alternative be made known to the profession.

It was moved in Convocation and seconded that this matter be returned to the Committee to consider the amendment of the Society's Rules Respecting Accounts to permit members to deposit clients' trust monies on the security of bank deposit certificates. The Chairman agreed and withdrew the Report so that the Committee could give consideration to the subject-matter of the motion before Convocation.

The Committee, upon reviewing the matter, recommended that a bank deposit certificate in a solicitor's name in trust be deemed to be an account within the meaning of Section 18 of the Regulation made pursuant to The Law Society Act.

**THE REPORT WAS ADOPTED**

. . . . . .

**COMPENSATION FUND SUMMARY**

Mr. J.D. Carnwath, Vice-Chairman, presented the Compensation Fund Summary for the period ended 31st March, 1977.

## COMPENSATION FUND

**For the Period 1st July, 1976 to 31st March, 1977**
**(9 months)**

| | |
|---|---|
| TOTAL RECEIPTS | $ 347,601.68 |
| TOTAL DISBURSEMENTS | $ 259,933.21 |
| EXCESS OF RECEIPTS OVER DISBURSEMENTS | $ 87,668.47 |
| BALANCE OF FUND at beginning of period | $1,486,468.30 |
| BALANCE OF FUND at end of period | $1,574,136.77 |

### RESUME OF GROSS CLAIMS OUTSTANDING

| | |
|---|---|
| CLAIMS RECEIVED and in the course of being processed as of 31st March 1977 | $3,513,969.01 |
| TOTAL PAID to 31st March 1977 from the commencement of the Fund on account of 975 claims of 107 former solicitors | $3,769,849.38 |

**THE SUMMARY WAS RECEIVED**

. . . . . .

## LEGAL AID COMMITTEE–Mr. Bowlby

Mr. A.M. Linden, Vice-Chairman, presented the Report of the Legal Aid Committee of its meeting on Wednesday, 6th April, 1977.

The following members were present: Professor A.M. Linden, Q.C., Vice-Chairman in the Chair, and John D. Bowlby, Q.C., Chairman, Messrs. Barnes, Cherniak, Mrs. Fleming, Messrs. Goodman, Hamer, Harris, Mrs. Jarmain, Messrs. Jones, Lamb, Montgomery, Ogilvie, Shaffer, Mrs. Smyth, Mr. Wallace.

A.C. Whealy, Solicitor, Toronto, was in attendance as an observer from the Criminal Lawyers Association.

Also in attendance by special invitation were John Weisdorf, Q.C., Director of Duty Counsel, Old City Hall, Toronto, and G. Pat Sommervill, Director, Legal Aid Society of Alberta.

## REPORT OF THE DEPUTY DIRECTOR

### *(a) Finance*

The Director's report for the 11 months to February 28, 1977, indicates that the Legal Aid Fund has spent $405,000 less than net budgeted expenditure. The following summarizes the Fund's position through the first 11 months of this fiscal year:

| **Under budget** | $ | $ |
|---|---|---|
| Fees and disbursements | | |
| Duty Counsel | 135,000 | |
| Criminal | 270,000 | |
| Civil (over) | (133,000) | |
| Advice | 2,000 | |
| | 274,000 | |
| Community clinics | 39,000 | |
| Area Office costs | 34,000 | |
| Administrative costs | 51,000 | 398,000 |
| Add: Miscellaneous income in excess of budget | | 29,000 |
| | | 427,000 |
| Deduct: Client contributions and costs under budget | | 22,000 |
| Net expenditure under budget | | 405,000 |

At February 28, 1977, there was a balance of $1,099,465 in the Fund.

### *(b) Statistics*

The following table compares reported activity for the 11 month period ended February 28, 1977, with the same 11 month period in the previous fiscal year.

| | *11 Month Period Ended* | | *% Change from* |
|---|---|---|---|
| | *Feb. 28, 1977* | *Feb. 28, 1976* | *Last Year* |
| Informal Applications | 87,105 | 85,819 | + 1.5 |
| Applications for Certificates | 93,061 | 97,681 | – 4.7 |
| Refusals | 28,924 | 25,627 | + 12.9 |
| Certificates issued | 69,542 | 79,086 | – 12.1 |

| | *11 Month Period Ended* | | *% Change from* |
|---|---|---|---|
| | *Feb. 28, 1977* | *Feb. 28, 1976* | *Last Year* |
| Persons assisted by Duty Counsel | 146,171 | 135,960 | + 7.5 |

*(c) Write-Offs*

George E. Wallace, Q.C., Vice-Chairman, has approved the write-off of the following total of amounts due to the Legal Aid Fund: $26,218.49.

**REPORT OF LEGAL ACCOUNTS OFFICER**

*(a) Reviews*

| | *March 1977* | *12 Months to Mar. 31/77* | *12 Months to Mar. 31/76* |
|---|---|---|---|
| Reviews on hand at beginning of | 288 | | |
| Reviews received in | 147 | 1485 | 904 |
| | 435 | | |
| Settlements reviewed in | 141 | 1245 | 617 |
| Settlements awaiting review at end of | 284 | | |
| Settlements awaiting further information at end of | 10 | | |
| | 435 | | |

*(b) Appeals*

| | *January* | *February* | *March* |
|---|---|---|---|
| Appeals to Taxing Master received during March | | | 1 |
| Appeals heard by Taxing Master | 1 | — | 4 |
| Appeals pending at the end of the month | 4 | 5 | 2 |

*(c) Activity*

| | *1976/77 Fiscal Year* | | *1975/76 Fiscal Year* | |
|---|---|---|---|---|
| | *Month of March* | *12 Months to March 31* | *Month of March* | *12 Months to March 31* |
| Accounts on hand at beginning | 6058 | 5087 | 5657 | 8839 |
| Accounts received | 6307 | 64556 | 6214 | 62121 |
| Total Accounts to be processed | 12365 | 69643 | 11871 | 70960 |
| Less: Files Cancelled | 314 | 717 | 380 | 710 |
| Accounts Processed | 7394 | 64269 | 6404 | 65163 |
| Balance | 4657 | 4657 | 5087 | 5087 |

The above figures do not reflect accounts for Interim Disbursements and Supplementary Payments.

**SPECIAL STANDING COMMITTEE, LEGAL ACCOUNTS**

The Committee reviewed a concern expressed by some members of the Committee that the Committee was not sufficiently informed with respect to processing of solicitors' accounts. It was suggested that a Sub-Committee be appointed which would be in close communication with the processing of legal accounts. The Committee appreciated the fact that the payment of legal accounts is dictated by tariff and by precedent case law of the Taxing Master. However, the Committee was of the opinion that a Sub-Committee was necessary so that the Legal Aid Committee would be informed of any problems with respect to the taxation of accounts and be able to consider and make decisions on amendments to the Act and tariff, keeping in mind the Federal Provincial Agreement. The Committee expressed the need for policy development in this area.

The Committee recommended that a Special Standing Committee be appointed to review the process of taxing solicitors' accounts under the Legal Aid Act, to look into the taxing of accounts, to ascertain problem areas and recommend and establish policies. The said Committee should also review and suggest procedures after consultation with both defence and prosecution, and the appropriate members of administrative staff should be added to assist the Committee in its deliberations.

The following have been appointed to the Committee:

R.S. Montgomery, Chairman
G.E. Wallace
A.C. Whealy
D.W. Jones
Mrs. A.C.R. Rosenthal
R.J. Carter

**DUTY COUNSEL, OLD CITY HALL, YORK COUNTY**

The salaried Duty Counsel pilot project in the Old City Hall, York County, commenced April 1st, 1977. The Director of Duty Counsel, John Weisdorf, Q.C., reviewed with the Committee the criteria to be used by the salaried duty counsel.

**CLINICAL FUNDING COMMITTEE**

On March 30th, the Clinical Funding Committee met to recommend to the Director, subject to the approval of Convocation, the issuance of clinical certificates to sixteen independent community service groups for the purpose of subsidizing the said groups. In accordance with the Regulation, the clinical certificate is for a period not exceeding one year and the Committee will report to the Director the terms and conditions of approval for each of the said groups.

The Director recommended to Convocation that the report of the Clinical Funding Committee for clinical funding for the fiscal year commencing April 1st, 1977, be adopted.

**LAY REPRESENTATION ON THE LEGAL AID COMMITTEE**

On 24th March, 1977, The Honourable R. Roy McMurtry, Q.C., Attorney General for Ontario, wrote the Director informing him that he had appointed Professor Peter Russell as a lay member of the Legal Aid Committee.

## AREA COMMITTEES

Section 4 (1) of The Legal Aid Act provides that the Law Society may appoint a Legal Aid Committee for an area.

The Committee recommended the following be appointed members of the Area Committee in:

**YORK COUNTY**

Franz R. Bowman, solicitor, Toronto
Harvey Starkman, solicitor, Toronto
John Rosen, solicitor, Toronto
David H. Newman, solicitor, Toronto
R.A. Marcello, President, Davidson and Partners Ltd., stockbrokers, Toronto
Michael Davis, President, L. Davis Textiles Ltd., Toronto
Douglas Linton, President, Goodis, Goldberg and Soren, advertisers, Toronto
Mrs. Gwen Laking, business executive, Toronto
Laurence Kearley, staff lawyer, Parkdale Community Legal Services, Toronto
Barbara Whalen, Metro Social Services Training, Toronto
Martin Meslin, President, Martin Meslin Associates Ltd., Graphic Designs, Toronto
Lynn King, solicitor, Toronto
Peter Kiviloo, Sr. Probation Officer, Ministry of Correctional Services, Toronto
Clay Powell, Q.C., formerly Assistant Deputy Minister of Justice, Toronto
Adrienne Harris, Assistant Professor, Psychology, York University, Toronto
Frank Marrocco, solicitor, Toronto
Brian Greenspan, solicitor, Toronto
D.R. Proctor, solicitor, Toronto
Thomas James Lockwood, solicitor, Toronto
G.R. Kluwak, solicitor, Toronto
Sandy Price, student, University of Toronto Law School, Toronto

**BRANT COUNTY – DECEASED**

Joseph Harvey Symington, Local Registrar, S.C.O., Brantford

**THE REPORT WAS ADOPTED**

. . . . . .

## PROFESSIONAL CONDUCT COMMITTEE–Mr. Cooper

Mr. A.M. Cooper, Chairman, presented the Report of the Professional Conduct Committee of its meeting on Thursday, 7th April, 1977.

The following members were present: Messrs. Cooper (Chairman), Kellock (Vice-Chairman), Bowlby, Chappell, Henderson, Lochead, Strauss, Mrs. Sutherland and Mr. Tobias.

1. It has been drawn to the Committee's attention by a local law association that certain lawyers who are full-time employees of a non-legal body have been practising law in their spare time. The association asked if it is proper for them so to do. The Committee was of the opinion that such conduct was not improper if the lawyers concerned comply with all of the

Society's requirements with respect to the private practice of law; for example, those sections of the Regulation dealing with the maintenance of proper books and records, the payment of errors and omissions premiums, etc.

2. The Speaker of the House of Commons has written to the Society advising that he has received a complaint from a litigant that the son of the Judge before whom he appeared was an articling student in the office of the lawyers for an opposing party. The Speaker has asked whether it is proper for a member of a family of a County or District Court Judge to article or to practise law in the county or district in which his or her father presides. The Committee was of the opinion that there is nothing improper in this course of conduct and instructed the Secretary to so advise.

**THE REPORT WAS ADOPTED**

. . . . . .

## LIBRARIES AND REPORTING COMMITTEE—Mr. Seagram

Mr. R. Ian Cartwright withdrew from Convocation prior to the presentation of the Report of the Libraries and Reporting Committee, took no part in the discussion with respect thereto and did not vote.

Mr. C.J. Seagram, Chairman, presented the Report of the Libraries and Reporting Committee of its meeting on Thursday, 7th April, 1977.

The following members were present: Messrs. Rogers (Acting Chairman), Chappell, Strauss, Mrs. Tait and Mr. Wallace; Miss A.R. McCormick; and Mr. Denis V. Burnett by invitation.

## GREAT LIBRARY

### BOOK LIST

A list of books recently purchased was approved with the exception of several books which are to be perused by members

of the Committee.

## COUNTY LAW LIBRARIES

### YORK NORTH LAW ASSOCIATION

The Secretary submitted a letter from Mr. R.F. Evans, President of York North Law Association, requesting approval of Convocation to form and incorporate an association in compliance with Regulation 28 (1) in order to obtain a grant to establish a law library. The Secretary advised that there were now 50 lawyers living and practising in the Judicial District of York north of Metropolitan Toronto with a potential membership of 100 lawyers. Mr. Evans further advised that each member pays $50 annual fees to the Association. The Committee recommended that Convocation approve the formation and incorporation of York North Law Association.

It was moved in Convocation, seconded and *carried* that the matter respecting the York North Law Association be referred back to the Committee for further consideration.

### ANNUAL GRANTS

The Associations listed below have sent in their Annual Returns for the year 1976. The amounts of the grants to which they are entitled under the Regulation in 1976 and 1977 are as follows:

| | *1976* | *1977* |
|---|---|---|
| Cochrane | $1,612.50 | $1,822.50 |
| Dufferin | 781.67 | 1,040.00 |
| Elgin | 1,616.25 | 1,670.00 |
| Lanark | 1,075.00 | 980.00 |
| Oxford | 1,810.00 | 2,000.00 |
| Rainy River | 750.00 | 750.00 |
| Peel | 2,000.00 | 2,000.00 |
| Perth | 1,495.00 | 1,425.00 |
| Wellington | 2,000.00 | 2,000.00 |
| York | 3,500.00 | 3,500.00 |

*Approved,* subject to the approval of the Finance Committee.

## REPORTING

### CANADA LAW BOOK LIMITED CONTRACT – DELAY IN PUBLICATION OF REASONS FOR JUDGMENT

The Secretary reported that the questionnaire on law reporting approved by the Committee at the March meeting was mailed to the profession on April 4, 1977.

### COMPUTER MAILING LISTS

Mr. Burnett outlined to the Committee the present system of having the records of members of the Society on two computers, one at Canada Law Book Limited and one at the Law Society. Mr. Burnett in his memorandum dated March 22, 1977, which was presented to the Committee, recommended that the Law Society's computer should be used to produce labels from its mailing list for the mailing of the Ontario Reports. Mr. Burnett further stated that this would be a gradual step by step operation and would eliminate a lot of duplication of work in keeping both mailing lists up to date with changes of address and would save the Society $4,800 annually.

The Committee recommended that the Law Society take over its own computer mailing list, subject to satisfactory testing, for the Ontario Reports, the Communiqué and other mailing purposes. In addition the Committee recommended that those names of non-members be added to our records in order to complete the equivalent of Canada Law Book Code 3.

*Approved*

**THE REPORT AS AMENDED WAS ADOPTED**

. . . . . .

## UNAUTHORIZED PRACTICE COMMITTEE–Mr. White

Mr. J.G.M. White, Chairman, presented the Report of the Unauthorized Practice Committee of its meeting on Thursday, 7th April, 1977.

The following members were present: Messrs. Tobias (Acting Chairman), Furlong and Strauss.

1. The Secretary reported that a solicitor had complained about a law student acting as agent in the County Court on a motion under The Landlord and Tenant Act. The Secretary was instructed to write to the law student and the solicitor who supervises the students at Campus Legal Assistance and indicate regret for sending the complaint because agents are permitted to appear in County Court under matters covered by Part IV of the Act but also to point out that it is the Society's obligation to forward letters of complaint and to ask for comments.

2. The Secretary reported that he was in receipt of a complaint with respect to a collection agency from Pierre Barnard of the Barreau du Quebec regarding a collection of a debt in Ontario. The Secretary was instructed to write to Mr. Barnard and send copies of the letters from the Registrar, The Collection Agencies Act, and advise that it is not a matter of unauthorized practice.

3. The Secretary reported that he was in receipt of a letter from a solicitor asking for advice concerning a layman advising and acting on compensation matters before The Workmen's Compensation Board. The Secretary was instructed to write to the solicitor acknowledging his letter, enclosing a copy of Section 50 of The Law Society Act and advising the solicitor that he should give his client the legal opinion.

4. The Secretary reported that he was in receipt of a letter from the Director, Companies Services Branch, advising that a business planning company in Ottawa appeared to be incorporating companies on behalf of clients. The Secretary was instructed to retain counsel in Ottawa to conduct an investigation particularly with regard to the three companies about which the Director notified the Society and if there was sufficient evidence to commence a prosecution.

5. The Secretary reported that he was in receipt of a letter from a solicitor outlining the terms of a proposed incorporation by a client of a real estate reporting service to real estate firms, lending institutions and others. The Secretary was instructed to send the solicitor a copy of Section 50 of The Law Society Act and reserve the right to check the objects of the proposed corporation at a later date.

6. The Secretary reported that he was in receipt of a complaint from a solicitor in Markdale concerning a community and legal aid services programme. The Secretary was instructed to write to the solicitor acknowledging his letter and advise that the matter was referred to the Legal Aid Committee as it was not a matter of unauthorized practice.

**THE REPORT WAS RECEIVED**

. . . . . .

## LEGAL EDUCATION COMMITTEE–Mr. Finlayson

Mr. G.D. Finlayson, Chairman, presented the Report of the Legal Education Committee of its meeting on Thursday, 7th April, 1977.

The following members were present: Mr. G.D. Finlayson, Chairman, Mr. G.F. Henderson, Vice-Chairman, Messrs. Cartwright, R.J. Gray, Kellock, Rogers and Mrs. Tait.

### BAR ADMISSION COURSE AND ONTARIO LAW SCHOOL COURSES

On Friday, March 11th, 1977 a meeting was held of the members of the Sub-committee to Review the Bar Admission Course, the Deans of the Ontario Law Schools and the Heads of Sections of the Bar Admission Course. The discussion at this meeting established that there was lack of communication and consequent lack of knowledge and understanding between the law school faculties and the Bar Admission Course faculty as to what is being taught in the several educational programmes which each is offering. The consensus of the meeting was that two courses of action should be followed to remedy this

deficiency and to improve the co-ordination of law school and Bar Admission Course courses.

Firstly, it was held that there should be a full exchange of course materials. Following the meeting, the Director received a letter from Dean David L. Johnston, writing on behalf of the Ontario Law School Deans, confirming the above and requesting that the Law Society should send to each Ontario university law school library one copy of the material prepared for students in the Bar Admission Course each year and one copy of each of the published materials produced as part of the Continuing Education programmes of the Society. These materials will then be made readily available to students and to faculty in the libraries of each of the law schools. The Deans of the law schools have in turn agreed to send to the Director of the Bar Admission Course a copy of the course taught by each member of the faculty in each of the law schools on the understanding that information respecting such courses and copies of the teaching material used in any course can be obtained directly from the faculty member concerned. A list of the Western University Law School courses with faculty teaching assignments by subject for the academic year 1977-78 had already been received from Dean Johnston.

The second course of action agreed upon was that there should be meetings between the Heads of Sections of several of the Bar Admission Course sections and a member of the faculty in each of the law schools engaged in teaching that subject in the LL.B. programme with a view to better co-ordination of such courses. Such meetings should be held in Toronto and would cost approximately $650 per meeting to cover necessary travelling and hotel expenses. Provision of lunch would cost an additional $130 and of dinner approximately an additional $140. The Committee recommended that the Director be authorized to hold not more than six meetings in the way suggested.

**ONTARIO LEGAL EDUCATION COUNCIL – COMMITTEE ON EDUCATION FOR COMPETENCE IN PRACTICE**

The Ontario Legal Education Council Committee on Education for Competence in Practice requested a meeting with the Society's Legal Education Committee. The purpose of the

proposed meeting is to discuss a number of fundamental issues about continuing legal education as it relates to competence in practice. A letter dated March 22nd, 1977, was received by the Chairman from the Council Administrator setting out these questions.

The Committee recommended this item be referred to the Sub-Committee to Review the Bar Admission Course.

**BAR ADMISSION COURSE –**
**LEGAL BRANCH OF THE R.C.M.P.**

This matter was referred by the Admissions Committee to this Committee. The Committee was asked to consider whether to allow members of the Legal Branch of the R.C.M.P. to enter the Bar Admission Course. All members of the Branch are graduates of approved law schools in Canada but due to their work they have not been able to complete the Bar Admission Course in Ontario.

The main function of the Branch is to provide legal advice and direction, both verbal and written, to the Commissioner of the Force, all levels of executive management, and all Divisions, Branches and Sections within the Force, on all legal matters affecting the Force, both civil and criminal in nature. On all questions of legal action or potential legal action involving the Force, the Branch and its members subordinate their decisions to those of Department of Justice personnel, as members of that Department are the law officers of the Crown and the ultimate responsibility in such matters is theirs.

The Committee was asked if members of the R.C.M.P. Legal Branch (Ottawa) may undertake their articles within their present office location having as their principal a member of the Department of Justice.

*Approved*

**CONTINUING EDUCATION –**
**MEETING OF JOINT COMMITTEE,**
**OTTAWA, AUGUST 1977**

The Joint Continuing Legal Education Committee of the Canadian Bar Association and the Federation of Law Societies of Canada met in St. John's, Newfoundland, on March 3rd,

1977. The Committee decided to hold its next meeting in Ottawa in August 1977 on the occasion of the annual meeting of the Canadian Bar Association. It was the decision of the Joint Committee that, in accordance with its established procedure, the meeting in Ottawa should be hosted by the Ontario constituents and that it should be co-chaired by Mr. Ian Outerbridge, Q.C. and Mr. George Collins-Williams who will be responsible for preparing the agenda.

The Committee recommended that the Director be authorized to seek agreement of the Canadian Bar Association that the costs of the joint meeting, including a reception and luncheon, be borne equally by the Society and the Association.

**BAR ADMISSION COURSE AND CONTINUING EDUCATION**

The Committee dealt with one special petition; considered financial statements for the Bar Admission Course and Continuing Education; and reviewed a summary of Continuing Education Programmes presented in March 1977 and the Continuing Education publications report for March 1977.

**THE UNIVERSITY OF MANITOBA – HALF-TIME PROGRAMME**

A letter to Professor C.H.C. Edwards, Dean of the Faculty of Law, University of Manitoba from the Secretary reads in part: "The question of a half-time programme leading to an approved LL.B. degree has not been put to this Society and should, I think, be put directly by the school which proposes it so that the Committee can consider whether graduates of such a programme should be entitled to enter the Bar Admission Course in Ontario." A submission from Dean Edwards was before the Committee.

The Committee recommended this matter be referred to the Sub-Committee on approved LL.B. degrees.

**THE REPORT WAS ADOPTED**

. . . . . .

Mr. J.D. Ground, Vice-Chairman, presented the Report of the Legal Education Committee of its meetings for the purpose of considering student petitions arising out of the Eighteenth Bar Admission Course.

The Committee met on Tuesday, 12th April, and Wednesday, 13th April, 1977, the following members being present: Mr. J.D. Ground, Vice-Chairman in the Chair, and Messrs. Thom, Cartwright, Kellock, Montgomery and Mrs. Tait.

The Committee received petitions from twelve students. One student requested an adjournment because his counsel was not available for the scheduled hearing. An adjournment to 21st April, 1977 was granted. A second student was unable to attend because of illness and his counsel attended and requested an adjournment *sine die,* which was granted.

The other ten students appeared before the Committee, five of them with counsel. Submissions were made by both counsel and students.

During the hearing of one petition Mr. Cartwright withdrew.

The Committee granted four petitions and denied six.

**THE REPORT WAS RECEIVED**

. . . . . .

**CONVOCATION ADJOURNED FOR LUNCHEON AT 12:30 P.M.**

. . . . . .

The Treasurer and Benchers had as their guests for luncheon Mr. Sydney M. Hermant, President and Chief Executive Officer of Imperial Optical Co. Ltd., and Mr. R.H. Sadleir, Principal of Upper Canada College.

. . . . . .

**CONVOCATION RESUMED AT 2:30 P.M.,**
**A QUORUM BEING PRESENT**

. . . . . .

**SPECIAL COMMITTEE ON**
**J. SHIRLEY DENISON BEQUEST**

Mr. Terence Sheard, Chairman, presented the Report of the Special Committee on J. Shirley Denison Bequest of its meeting on Thursday, 7th April, 1977.

The following members were present: Messrs. Sheard (Chairman), Cass and Pepper.

**APPLICATIONS**

The Committee considered and approved three applications for grants.

**STUDENT APPLICATION**

The Committee considered an application for a grant from a student who had failed the Bar Admission Course, together with a memorandum from the Assistant Director of the Bar Admission Course recommending that a grant be made. The Committee approved the application.

**THE REPORT WAS ADOPTED**

. . . . . .

**SPECIAL COMMITTEE ON**
**CONVOCATION AND ELECTION OF BENCHERS**

Mr. W.B. Common, Chairman, presented the Report of the Special Committee on Convocation and Election of Benchers dated 18th February, 1977, which he had tabled at Convocation on 18th February, 1977, at which time consideration of the Report was deferred to a later date.

Convocation considered the Report and voted on each of the recommendations contained therein.

The following is the Special Committee's Report with Convocation's disposition of the recommendations incorporated therein:

This Special Committee was appointed on the 20th day of June, 1975 with the following members: Messrs. S.L. Robins (Chairman), G.D. Finlayson, E.A. Goodman, J.D. Ground, Noel

Ogilvie, P.B. Tobias and G.E. Wallace.

Upon the appointment of Mr. Robins to the High Court Division of the Supreme Court of Ontario, your present Chairman was appointed in April, 1976. Mr. Furlong was appointed to the Committee in October, 1976.

Meetings were held on the following dates: November 13, 1975; April 22, June 16, September 13, October 7, November 12 and December 3, 1976; January 14 and February 9, 1977.

In view of the terms of reference, your Committee had before it a short resumé of related matters contained in the Ontario Legislation governing the following professions:

(a) Accountants (Chartered)
(b) Architects
(c) Dentists
(d) Engineers (Professional)
(e) Pharmacists
(f) Physicians and Surgeons
(g) Veterinarians. (Schedule A).

Your Committee also had before it a similar resumé of the related provisions of the Law Society Acts of other provinces which were of inestimable value in the discussions of the Committee. NOTE: material from Prince Edward Island was not available. (Schedule B).

The matters considered by the Committee were numerous and were referred by either the Treasurer, Convocation, sent in by individual benchers, or raised by individual members of the Committee. The legislation and practices referred to in Schedules A and B and in other jurisdictions were given careful study.

## 1. ELECTION OF BENCHERS

### (a) *Number of Benchers and Term of Office*

The question of an automatic increase in the number of benchers, in view of the substantial annual increase in the number of members of the Society was discussed at length. It was the decision of the Committee that no increase appeared to be indicated at this time. The suggestion of a reduction in the number of benchers was rejected as being of no practical value. The term of four years for benchers elected at the regular

election of benchers was discussed and it was concluded that to be of any value at all to the profession, the four year term for benchers as provided in The Law Society Act should not be altered.

*Carried*

(b) *Regional Voting*

The Law Society Act does not provide for any regional voting except area representation in Section 15(2) and (3) for 20 benchers from Metropolitan Toronto and 20 benchers from the rest of Ontario. It is pointed out that there are two forms of regional voting:

(i) where the jurisdiction, i.e., Ontario, is divided into designated areas and candidates are nominated solely for the designated area *and only those members in the area* are entitled to vote for such candidates.

(ii) where there are designated areas as in (i) but *all members* are entitled to vote for the candidates nominated in such areas.

This question was the subject of prolonged debate by the Committee. It was pointed out that some areas were not represented in Convocation under the present provincial wide voting system. Such conditions could have been avoided locally had proper steps been taken at the time.

Your Committee was of the opinion that it was of paramount importance that every member should be entitled to vote for every candidate without restrictions as to the residence of the candidate.

It was the consensus of the Committee that, as there has been no real "pressure" for any different system, no change should be entertained at this time. It is recognized by the Committee that merits and defects exist in both systems, but after studying the legislation set out in Schedules A and B and until evidence of a substantial support for a change is indicated, no action should be recommended at this time. The present system should be reviewed periodically.

As to voting at large

*Carried*

It was moved in Convocation and seconded that item 1(b) be returned to the Special Committee to be considered further with respect to regional representation.

As to the balance of (b)

*Carried*

(c) *Qualification of Candidates for Election as Benchers*

A careful study of the Legislation in Schedule B on this point indicates that in some provinces restrictions exist affecting the eligibility of candidates for election to the governing body such as

(i) age

(ii) minimum length of membership in the Society

(iii) statutory candidates

(iv) disqualification after one or more elections as member of governing body.

There are no restrictions in Ontario affecting candidates for election as a bencher save that the candidate, of course, must be a member of the Society in good standing. No 'statutory candidates' are required by The Law Society Act. There is of course an "unwritten" understanding that not more than one candidate from one law firm should seek election. It was suggested that members of the Society who do not practise, or who are employed by government or individual corporations should not be eligible as candidates. This was rejected.

*Carried*

(d) *Information Concerning Candidates*

The Law Society Act, its Regulation and Rules are silent on what might colloquially be termed "the ethical or otherwise use of campaign material" by candidates seeking election as benchers. It is a matter of gratification that with one or two isolated instances over many years, this has not been a problem requiring the attention of the Society.

The phenomenal growth in the membership of the Society in recent years does, however, present some difficulty among the members in determining for whom to vote when there is no

reliable or available information concerning a particular candidate.

This matter was the subject of lengthy discussion. The situation in other Canadian jurisdictions offered no assistance. Messrs. Ground and Furlong, after careful research, submitted material which impressed the Committee and formed the basis of its recommendation. The material submitted by Mr. Ground discloses information concerning candidates for election for "Overseers and Associated Harvard Alumni Directors" which has wide spread distribution to those parties entitled to vote. It will be noted that the biographical material shows academic background together with business, professional and community activities accompanied by a photograph of the candidate. (Schedule C).

The material submitted by Mr. Furlong is somewhat similar. It has reference to candidates seeking election as Directors of the Detroit Bar Association. (Schedule D). Sample ballot with biographical information on reverse side is attached to this report. (Schedule E). Photographs of candidates are permitted. With reference to the Michigan State Bar the "campaign material" for candidates for all offices is limited to a biographical sketch only (200 words) and apparently photographs are not permitted. The direction of the Michigan State Bar is attached to this report. (Schedule F).

Your Committee recommends that information of a similar character should be provided by the candidate for the information of the members who wish to vote, subject, however, to certain further restrictions.

The information or biographical data should be limited to 100 words and be confined to professional matters only, i.e., academic background, age, date of graduation, name of firm, various places in which the candidate has practised together with information as to community activities, excluding religious and political organizations.

Your Committee was not unanimous on the question of the inclusion of photographs and concern was expressed whether the additional cost was warranted. There was a consensus that the inclusion or exclusion of pictures should be determined by Convocation on the basis of cost if this report is

adopted.

Any material of unprofessional or commercial character should be prohibited. The preparation of the material would be done by the candidate but printed and mailed by the Society with the ballot. Should an editing committee be required, it should consist of *ex officio* benchers appointed by the Treasurer. It is recommended that if this principle is implemented, the Professional Conduct Committee pass a rule prohibiting the use of "campaign material" of an unprofessional or commercial character, confining such material as herein set out.

In principle, details to be worked out by the Special Committee and submitted to Convocation later.

*Carried*

At the same time the Special Committee is to give consideration to a professional conduct ruling to prohibit campaign material of an unprofessional or commercial character and submit its recommendations.

(e) *Identity of Former Benchers who are Candidates*

The identification of former benchers is unobjectionable, but should be continued as part of the information material referred to in (d) above.

*Carried*

(f) *Voting Provisions for Election of Benchers,* Rules 7 – 9 inclusive

A careful review of the above mentioned Rules was conducted by your Committee, and it was its opinion that the Rules were adequate and satisfactory and no change is recommended.

*Carried*

(g) *Filling of Vacancy,* Section 22(2)

Representations were made to your Committee that Section 22(2) should be amended so that "next in line" candidates need not necessarily be elected by Convocation by reason of the fact that since the general election of Benchers the

"next in line" candidate may have been guilty of unprofessional conduct or conduct unbecoming, resulting in a reprimand. Furthermore other distasteful circumstances occurring in the interim might render such person an undesirable person to be elected a bencher. If these circumstances exist, Convocation would be placed in a most invidious position. Prior to the amendment to The Law Society Act in 1970 there were no provisions similar to those contained in Section 22 (2), thus Convocation could fill a vacancy unfettered by the restrictions now provided.

It was suggested that a nominating committee composed of *ex officio* benchers appointed by the Treasurer could submit the names of not less than five unsuccessful candidates for election to fill the existing vacancy.

Your Committee recommended that no change be made to the existing system. A reservation of power to the benchers to select from among a group in order to fill a vacancy could convey an impression of favouritism and should be avoided. No serious problem has arisen since the institution of the present system in 1970 and it was felt by your Committee that it is equitable that the person receiving the next highest number of votes from the members should be elected to fill the vacancy. Consideration should be given to an amendment to the Rules as to the eligibility of a member

(i) who has been found guilty of professional misconduct or conduct unbecoming and was reprimanded in Convocation

(ii) who has been suspended, or

(iii) against whom disciplinary proceedings are pending.

It was moved in Convocation and seconded that this question be returned to the Special Committee for further consideration.

*Lost*

As to existing system

*Carried*

As to eligibility

*No view expressed*

8. *(sic) Proceedings in Convocation*

(a) At the meeting of the Committee on October 7th 1976 the Chairman and the Secretary were requested to review the form of the present proceedings in Convocation.

Subject to the observations of this Committee and its recommendations and to the Report of the Special Committee dealing with the reporting of disciplinary matters to Convocation, your Committee, after hearing the verbal report of the Chairman, was of the opinion that the present form of proceedings in Convocation was satisfactory and adequate to enable Convocation to properly and efficiently discharge its responsibility to the profession and recommends that no change is indicated at this time. It is recalled that the January 21st 1977 Convocation dealt almost exclusively with the Report of the Discipline Committee to the exclusion of other important matters. While disciplinary matters are of the utmost importance, demanding the closest attention of Convocation regardless of the length of the Report and ensuing debate, it is suggested that, in the interests of the proper administration of the affairs of the Society, consideration be given to scheduling Special Convocations on predetermined dates to deal with matters not disposed of at regular Convocations.

*Stand*

(b) The Treasurer requested your Committee to consider whether it would be feasible to have the standing committees report every second month only, it being understood that any chairman could report to any regular Convocation if he was of the opinion that it was necessary to do so. Such suggested procedure, if implemented, would tend to reduce the work of Convocation and provide more time to deal with urgent and possibly more important matters.

This suggestion was considered at length by the Committee and it concluded that the reports of all standing committees should appear on the agenda for each regular Convocation. The reports of all standing committees will have been circulated in advance of Convocation to each bencher for consideration. The Chairman of the Committee shall not report orally to Convocation on filing the report if he considers the contents of the same do not warrant comment. Convocation

may, of course, place any questions its members desire and answers will then be provided. Chairmen should be reminded that oral reports should be confined to matters of policy or substance only.

*Carried*

(c) *Open Convocation*

The Committee received a proposal that meetings of Convocations should be open to all members of the profession. Members of Convocation are elected to carry out the business of the Law Society. Any objections to the functions of Convocation may be aired at the annual meeting. Moreover, at the next general election of benchers the sentiment of those voting may be reflected in the result of the balloting. On balance your Committee is of the opinion that open Convocations would not only be prejudicial to the proper function of Convocation, but might be deluged with matters properly the subject of discussion at the Annual Meeting. As far as can be ascertained, no Law Society legislation in the other provinces provides for open Convocations or meetings of the governing bodies other than annual meetings.

*Tabled*

9. *Election of Treasurer,* Section 25 and Rule 19(1)

Where only one member of the Society is nominated for the office of Treasurer Section 25 of the Act is explicit and such nominated member is elected by acclamation. However, where there are multiple nominations as occurred in 1976 at the election of Treasurer, different voting procedures are required.

The report of your Committee dated 22nd April 1976 and approved by Convocation 23rd April 1976 providing for voting procedure in the case of multiple nominations for Treasurer is attached to this report. (Schedule G – see p. 92 *et seq.*)

Your Committee has nothing further to recommend in this matter and consequently the report (Schedule G) is to be considered part of this Report.

Following Schedule G is a directive by the Secretary as to the procedure to be followed where more than one ballot is required.

In your Committee's opinion, the voting procedure outlined in Schedule G proved satisfactory and it is recommended that this matter be referred to the Legislation and Rules Committee for the purpose of incorporating such voting procedure into the Rules made under The Law Society Act.

*Carried*

The question of a Vice-Treasurer is to be referred to the Special Committee.

10. *Classification of Benchers*

(a) Members of the Society who are elected as Benchers

*Noted*

(b) Honorary Benchers, Rule 48.

Honorary Benchers may be made by Convocation. To date the following are Honorary Benchers of the Society:

(i) Her Majesty Queen Elizabeth, The Queen Mother
(ii) The Right Hon. John Robert Cartwright, P.C., Q.C.
(iii) The Right Hon. Roland Michener, P.C., Q.C.
(iv) The Right Hon. John George Diefenbaker, P.C., Q.C.

Your Committee recommends that no change be made in this classification.

*Noted*

(c) *Ex officio Benchers,* Section 12

(i) Paragraphs 1, 2, 3, 4 and 5 of Subsection (1) of Section 12 of the Act were considered by the Committee and it is recommended that these be repealed and that only the persons holding the office of The Minister of Justice and Attorney General for Canada and of The Attorney General of the Province of Ontario be Ex Officio Benchers by Statute while such persons hold such office. It is felt that no meaningful purpose is served by perpetuating the persons mentioned in paragraph 3 (in part), 4 and 5 as *ex officio* benchers. It is further recommended that the right to vote of the Attorney General for Ontario be maintained.

*Carried*

(ii) *Ex officio* benchers under paragraphs 6, 7, 8 and 9 have no right to vote in Convocation or in a committee. This denial of the privilege to vote has been the subject of some controversy since it was enacted in 1970. There is an unmistakable trend in the profession to elect younger men as benchers, and there has been some agitation to restore the right to vote to the *ex officio* benchers and thus enable Convocation to profit by the expertise and experience of such benchers.

By denying the vote to *ex officio* benchers under paragraphs 6, 7, 8 and 9 an incongruous result may occur. A young bencher on his first and only election might be elected Treasurer, in which event his status as an *ex officio* bencher with a right to vote is perpetuated until he reaches 75 years of age while those *ex officio* and experienced benchers under paragraphs 6, 7, 8 and 9 are denied the privilege.

The majority of your Committee (the Chairman abstaining) recommends the return of the privilege to vote to *ex officio* benchers.

*Lost*

(iii) *Ex-Treasurers as Ex Officio Benchers,* Section 14

The Treasurer and former Treasurers are *ex officio* Benchers. Under Subsection 2 his right to vote continues until he attains the age of 75 years. It is recommended that the age limitation be repealed and that Subsection 2 be amended accordingly.

*Lost*

(iv) *Appointed Benchers,* Section 23a

Four benchers who are not members of the Society but appointed by the Lieutenant Governor in Council under this section are as follows:

| | |
|---|---|
| Mr. Joseph D. Carrier | Toronto |
| Mr. Noel Ogilvie | Grimsby |
| Mrs. Roseanne Sutherland | Sudbury |
| Mrs. Reginae M. Tait | Toronto |

These appointed benchers have the rights and privileges of an elected bencher only. They may vote in Convocation or Committee but as they are not members of the Society, they

are not entitled to vote at the general election of benchers or at the Annual General Meeting.

Your Committee takes this opportunity to pay tribute to the calibre of these appointed benchers and to their great contribution to the work of the Society, both in Committee and Convocation. Their dedication to their responsibilities as benchers is outstanding and it is indeed a great pleasure and privilege to be associated with them. In this regard your Committee feels that it speaks for all members of Convocation.

*Carried*

11. *Members and Lay Appointees to advise Convocation*

Your Committee recommends that individuals, whether members of the Society or not, who may possess certain talent or expertise be appointed to advise committees on certain specified matters. These appointees should not have a vote, of course, but their role would be purely advisory.

In one or two of the other provinces, similar provisions exist; moreover, in Nova Scotia it would appear that under certain circumstances, non-bencher members or lay persons may be appointed to committees with voting privileges.

*Noted*

12. *Reports on Attendance of Benchers*

Considerable debate occurred whether reporting the attendance of benchers at Convocations and Standing Committees should take place at the annual general meeting. Your Committee recommends that such information should be directly furnished to the profession with the annual general meeting material. The Committee is not unmindful of the fact that the attendance of individual benchers at Convocation and on Committees is recorded in the Minutes of Convocation. If this recommendation is implemented caution must be exercised in revealing the attendance record of benchers who have been elected at Convocation between quadrennial elections under Section 22 (2).

It was moved and seconded that item 12 be referred back to the Special Committee for further consideration.

*Carried*

Convocation felt that there might be difficulties in attendance at Committees.

**13.** *Annual General Meeting,* Section 3 and Rule 52

Prior to 1975 the annual general meeting of the Society took place during the annual meeting of the Canadian Bar Association, Ontario Section, usually in the month of February. For various reasons the date of the annual general meeting was changed, and in 1975 and 1976 it was held at Osgoode Hall in the months of December and November, respectively.

Your Committee recommends that annual general meetings be held from time to time in centres outside of Toronto.

*Carried*

(a) *Proxy Voting at Annual Meeting*

On the 17th day of September 1976 Convocation referred to your Committee a motion of Mr. Furlong, seconded by Mr. Carnwath, that Convocation make a rule respecting voting by proxy at meetings of the members of the Society in the terms set out in the motion.

This matter was considered and debated at great length by your Committee after deciding that the question be related to voting by proxy on resolutions submitted to the annual general meeting only.

The preparation of proxies would be an additional burden on the Society.

It is to be noted that as far as can be ascertained no proxy voting is provided for by the Legislation of the Law Societies in other provinces. Proxy voting may result in a decided reduction in the attendance at annual meetings.

Your Committee recommends that proxy voting not be permitted.

*Carried*

(b) *Position at the Annual General Meeting of Appointed Benchers and of Non-Members Assisting Committees*

Your Committee points out that the persons mentioned above are not members of the Society and ordinarily would not be permitted to speak at the annual general meeting. Your

Committee, however, recommends that, at the discretion of the Treasurer or other official presiding at the annual general meeting, these persons be permitted to address the meeting on relevant matters but, of course, they are not permitted to vote on any matter.

*Carried*

14. *Minutes of Convocation*

Your Committee was made aware of continuing criticism with respect to the delayed publication of minutes of Convocation. The procedure, recently adopted, of circulating these minutes by a printing separate from the Ontario Reports has been favourably accepted. Your Committee, however, further recommends that for a transitional period such publication be of the minutes of the latest Convocation held and that the minutes of past Convocations be circulated as and when possible in addition to maintaining the current reporting.

*Carried*

Convocation had before it copies of the following material referred to in the Report of the Special Committee:

| | | |
|---|---|---|
| Schedule A | – | Resumé of related matters contained in Ontario Legislation governing other professions |
| Schedule B | – | Summary of related provisions from the Law Society's Act of eight other Provinces (the exception being Prince Edward Island) |
| Schedule C | – | Example of Information Concerning Candidates – Biographical Material concerning Candidates for Election as Overseers and Associated Harvard Alumni Directors |
| Schedule D | – | Similar Biographical Material concerning Candidates for Election as Directors of the Detroit Bar Association |
| Schedule E | – | Ballot for Vote by Mail for Candidates for Election as Directors of the Detroit Bar Association (Printed on reverse side of biographical information) |
| Schedule F | – | Direction of the Michigan State Bar respecting Biographical Information concerning Candidates for Election to all offices and |
| Schedule G | – | Report of Special Committee on Convocation and Election of Benchers dated 22nd April, 1976, approved by Convocation 23rd April, 1976, respecting Voting Procedure for the Election of |

Treasurer in the case of multiple nominations
for the office referred to in item 9 above.
The relevant portions are set out hereunder:

Three candidates have been nominated for the office of Treasurer and your Committee was asked to recommend the best method of conducting the election.

Your Committee concluded that it was desirable that all eligible Benchers should be enabled to cast their votes whether or not they are able to attend Convocation in May. A total of 54 Benchers are entitled to vote, the 40 elected Benchers, four appointed Benchers, three ex-Treasurers who are under the age of 75 and seven who became Benchers by virtue of holding the office of Attorney General for Ontario.

Your Committee also considers it desirable that the candidate who is elected Treasurer receive a majority of the votes cast. Having considered various ways in which these two objectives can be reached, your Committee recommends that the election be conducted by means of a mail ballot on which eligible voters will indicate a single choice. If on the first ballot no candidate receives 50% or more of the votes cast (including defective ballots for the purpose of determining the number of votes cast) then a further ballot will be prepared leaving off the name of the candidate who received fewest votes on the first ballot.

It is, therefore, recommended that the Secretary send the first ballot by mail to every eligible voter as soon as possible and that the members be required to return their marked ballots to the Secretary's office by Friday, May 7th and that the Secretary and the Chairman of this Committee then open and count the votes. If necessary the Secretary is then to prepare a second ballot and send it by mail to all eligible voters who will mark their ballots and return them to the Secretary's office by Thursday, May 20th. The Secretary and the Chairman of this Committee are then to open and count the second ballots and whether the election is decided by one or two ballots the result is to be announced to Convocation by the Secretary as the first order of business at the regular Convocation on Friday, May 21st.

Your Committee recommends that the voting be by secret ballot and that to accomplish this each voter be supplied with the appropriate ballot paper, an envelope marked "Ballot" in which to enclose it and a second envelope addressed to the Secretary in which to enclose the first envelope and the ballot, the second envelope to bear a number and a space for the voter to sign his name. When the voting envelopes are received by the Secretary the names are to be checked off the voters' list then the outer envelopes discarded and the inner envelopes containing the ballots mixed together then opened and the votes counted. In the event of a tie vote on either the first or the second ballot, the whole election will be referred to the regular May Convocation and a Treasurer will be elected by the eligible voters present.

Your Committee's recommendations are in two respects contrary to the recommendations respecting Treasurers' elections which Convocation adopted in October, 1972. Your Committee's recommendation will make it mandatory for candidates for the office of Treasurer to accept their nominations or give notice of withdrawal forthwith so that the first ballot can be mailed promptly. Also, it will, in accordance with the present recommendation, not be necessary, nor possible, for formal motions for the nomination of Treasurer to be made at the regular May Convocation.

together with the following Directive on the letterhead of the Office of the Secretary of The Law Society of Upper Canada, also referred to in item 9 above:

10th May, 1976

To the Benchers of The Law Society of Upper Canada

A second ballot is required in the election of Treasurer.

Enclosed are the following:

(1) Ballot showing the names of those who are still in nomination.

(2) Envelope marked "Ballot".

(3) Special return addressed envelope which requires your name to be added.

Would you please indicate a single choice on the ballot, fold it and place it in the envelope marked "Ballot". That envelope should then be sealed and placed in the return addressed envelope. The return addressed envelope should have the voter's name added in the space provided and be returned to the Secretary's office by *4:30 p.m., Thursday, May 20th.*

The Secretary and Mr. William B. Common will then identify the voter from the outer envelope and mark his name off the list of Benchers, discard the outer envelopes and mix together the inner envelopes containing the ballots. These envelopes will then be opened and the votes counted.

As the first order of business at the regular Convocation on Friday, May 21st, the Secretary will announce the result of the election.

In the event of a tie vote the election will be referred to Convocation and a Treasurer will be elected by the eligible voters present on May 21st.

KENNETH JARVIS
Secretary

Encls.

. . . . . .

**THE REPORT AS AMENDED WAS ADOPTED**

. . . . . .

**INCORPORATION OF LAW PRACTICES**

The Treasurer referred to correspondence with respect to the incorporation of law practices he had received from Mr. J.D. Ground and to the fact that a committee of the Canadian Bar Association was considering the matter because of recent legislation. Convocation was advised that Mr. Ground had undertaken to bring this matter forward for discussion at an early Convocation.

. . . . . .

**CONVOCATION ROSE AT 5:45 P.M.**

. . . . . .

Read in Convocation and confirmed 17th June, 1977.

W. GIBSON GRAY

Treasurer

THE LAW SOCIETY OF UPPER CANADA

# Minutes of Convocation

Volume 2 Number 4

Members wishing to receive the Minutes of Convocation are asked to complete the form below and send it to the Society.

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The Secretary,
The Law Society of Upper Canada,
Osgoode Hall,
Toronto, Ontario
M5H 2N6

I would like to receive the Minutes of Convocation at the address below:

Name .....

Address .....

.....

.....

# MINUTES OF CONVOCATION
## (ABRIDGED)

Friday, 20th May, 1977
10:00 a.m.

**PRESENT:**

The Treasurer (Mr. W. Gibson Gray after his re-election) and Messrs. Bowlby, Bynoe, Carnwath, Carrier, Carter, Cartwright, Cass, Chadwick, Chappell, Cooper, Farquharson, Fennell, Finlayson, Furlong, Goodman, R.J.S. Gray, Ground, Kellock, Mrs. Legge, Messrs. Lochead, Montgomery, Ogilvie, Outerbridge (after his election), Pallett, Pepper, Rogers, Salhany, Seagram, Sheard, Shepherd, Shibley, Strauss, Mesdames Sutherland and Tait, Messrs. Wallace, White, Willoughby and Zahoruk.

. . . . . .

**ELECTION OF TREASURER**

The Secretary confirmed his report to the April Convocation, namely, that he had received one nomination for the office of Treasurer for the ensuing year: Mr. W. Gibson Gray, Toronto.

It was moved, seconded and *carried* that Mr. *W. Gibson Gray* be elected Treasurer for the ensuing year.

On his election to the office of Treasurer for a second term, Mr. Gray took the chair and addressed the Bench.

The Treasurer thanked the members of Convocation for their expression of confidence and said that although he appreciated very much the work during the past year of all of the members of Convocation and of all of the Committee Chairmen, he wished at this time to thank particularly Mr. Bowlby, the Chairman of the Legal Aid Committee, for his untiring efforts on that Committee's behalf and for his efforts with respect to the forthcoming Symposium on Legal Aid.

The Treasurer listed some of the matters which he hoped would be dealt with in the near future. He stated that steps were being taken to suggest a different format for the Law Society's annual meeting in October 1977, and that it was to be hoped that the Report of the Special Committee on Convocation and the Election of Benchers would be ready for the June Convocation. In so far as the Society's building projects were concerned, the Treasurer advised that the work on the east and west portions of the Osgoode Hall Fence had been completed and that he understood that the Queen Street portion of the Fence would be removed forthwith. The work on the building has been progressing and the Treasurer understood that if all runs according to schedule, the building work would be completed by the end of 1977. The Report on Discipline Procedures in Convocation is to be dealt with today and the question of the distribution of the Minutes of Convocation is partially solved, since copies of these Minutes are now being sent to the Law Society's members under a program whereby in the near future members will receive copies of the current Minutes together with copies of the Minutes from July 1977 to the present time.

. . . . . .

**ELECTION OF BENCHER**

Mr. W.B. Williston, an elected Bencher, having elected to become a Bencher ex officio as of 15th April, 1977, a vacancy existed in Convocation.

It was moved, seconded and *carried* that Mr. *Ian W. Outerbridge* of Toronto be elected a Bencher to fill the vacancy in Convocation.

. . . . . .

**ELECTION OF CHAIRMAN AND VICE-CHAIRMAN OF HOUSE COMMITTEE (SPECIAL COMMITTEE)**

The Treasurer informed Convocation that at a meeting of the House Committee on Thursday, 12th May, 1977, Mr.

Carthy was elected Chairman and Mr. Brulé Vice-Chairman of the Committee. The other members of the Committee are Messrs. Carnwath, Finlayson, Pepper, Sedgwick, Sheard and Thom, and The Honourable Mr. Justice Peter Wright.

. . . . . .

## APPOINTMENT OF SPECIAL COMMITTEE ON THE WHITE PAPER ON COURTS ADMINISTRATION

The Treasurer announced that pursuant to the authority given to him by Convocation on 15th April, 1977, he had appointed a Special Committee on the White Paper on Courts Administration consisting of Messrs. Pepper (Chairman), Finlayson and Montgomery.

. . . . . .

## APPOINTMENT TO SPECIAL COMMITTEE ON THE INCORPORATION OF LAW PRACTICES

The Treasurer advised Convocation that this Special Committee had been reactivated and that Mr. Ground had been named to it as a member. The Special Committee on the Incorporation of Law Practices consists of Messrs. Fennell (Chairman), Ground, Henderson, Seagram, Thom and Zahoruk.

. . . . . .

## MINUTES

The Minutes of Convocation of 18th March, 1977 and of Special Convocation for Call to the Bar of 25th, 28th and 29th March, 1977 were read and confirmed.

. . . . . .

## LEGAL EDUCATION COMMITTEE–Mr. Finlayson

Mr. G.D. Finlayson, Chairman, presented two Reports of the Legal Education Committee respecting two petitions arising out of the Eighteenth Bar Admission Course.

The Committee met on Thursday, 21st April, 1977, the following being present: Mr. J.D. Ground, Vice-Chairman in the Chair, Messrs. Cartwright and Kellock, and Mrs. Tait.

One petitioner attended with his counsel. Both made submissions.

Evidence was adduced on behalf of the petitioner from a solicitor with whom he had articled.

The Committee granted the petition.

The Committee met again on Wednesday, 4th May, 1977, the following being present: Mr. J.D. Ground, Vice-Chairman in the Chair, Messrs. Thom and Kellock, and Mrs. Tait.

The petitioner attended with his counsel.

The Committee considered letters of recommendation written by two of the petitioner's principals upon his completion of his articles of clerkship.

The Committee heard submissions from the petitioner and counsel on his behalf. Counsel then led evidence from three solicitors with whom the petitioner had been associated during his period of articles.

The Committee granted the petition.

**THE REPORTS WERE RECEIVED**

. . . . . .

## ADMISSIONS COMMITTEE–Mr. Pepper

Mr. P.B.C. Pepper, Chairman, presented the Report of the Admissions Committee of its meeting on Thursday, 12th May, 1977.

The following members were present: Mr. P.B.C. Pepper, Chairman, Mrs. L.L. Legge, Vice-Chairman, Messrs. Cass, R.J. Gray, Ground and Mrs. Sutherland.

## CALL TO THE BAR AND CERTIFICATE OF FITNESS

### Bar Admission Course

The following candidates having successfully completed the Eighteenth Bar Admission Course, filed the necessary documents and paid the required fee of $210.00, applied for Call to the Bar and to be granted Certificates of Fitness:

Daniel Joseph Balena
Gilles Andre Michel Charlebois
Frank Jaksa
Mary Judith Baker Leach
Sidney Irving Lovas
Paul Malcolm Thompson

*Approved*

The following candidate having successfully completed the Thirteenth Bar Admission Course, filed the necessary documents and paid the required fee of $210.00, applied for Call to the Bar and to be granted a Certificate of Fitness:

Richard Achille Anisio

*Approved*

## CALL TO THE BAR FOR OCCASIONAL APPEARANCE

The Admissions Committee recommended that the following be allowed to proceed under the Admissions Committee's Regulation 10 concerning "Occasional Appearances in Ontario of Lawyers from other Provinces" and that upon giving the necessary undertakings they be called to the Bar and admitted as solicitors:

| | |
|---|---|
| Gilbert D. Clifford | Province of Manitoba |
| Julian Chipman, Q.C. | Province of Quebec |

*Approved*

## ADMISSION OF STUDENT-AT-LAW

One candidate, having complied with the relevant Regulations, paid the required admission fee of $101.00 and filed the necessary papers, applied under Regulation 26(5) for admission to the Bar Admission Course as of 1st September, 1976.

*Approved*

**CALL TO THE BAR –
29TH MARCH 1977**

On 15th April, 1977 the Committee reported to Convocation that it had adjourned to 12th May, 1977 the hearing of representations on behalf of two candidates for Call to the Bar on 29th March, 1977, who had been approved on 18th March, 1977 by this Committee and Convocation. Before the Call to the Bar ceremony took place, the Society was informed that these two candidates did not fulfil the requirement of good character, both having been convicted of a criminal offence. The candidates were advised that they could not be called to the Bar on 29th March but that they would be given an opportunity to supply full information to this Committee and to satisfy the Committee that they met the requirement of good character.

On 12th May, 1977 the applications of both candidates were before the Committee. Counsel for the Society attended to advise the Committee with respect to the relevant law.

Counsel for one candidate attended and was granted a further adjournment to 9th June, 1977.

The other candidate attended with counsel. The Committee dealt with this application and, after considering oral and written evidence on the candidate's behalf, recommended that this candidate be Called to the Bar.

**DIRECT TRANSFERS FROM QUEBEC**

The Committee considered and approved twenty-one applications from Quebec solicitors for direct transfer to practise in Ontario under Regulation 4 (2).

**OCCASIONAL APPEARANCES**

*Gilbert D. Clifford* of the Bar of the Province of Manitoba applied to proceed under Section 10 of the Regulation "Occasional Appearances in Ontario" of lawyers from other Provinces in the case of *Regina v. Donald Woodlands.* Mr. Clifford, having complied with the requirements of Section 10

of the Regulations, asked to receive his call to the Bar of Ontario at the May Convocation subject to supplying a Certificate of Good Standing.

*Approved*

*Julian Chipman,* Q.C., of the Bar of the Province of Quebec applied to proceed under Section 10 of the Regulation "Occasional Appearances in Ontario" of lawyers from other Provinces in the case of *Her Majesty the Queen v. Domtar Construction Materials Ltd., B.A.C.M. Limited, Truroc Gypsum Products Ltd.,* and *Westrock Industries Limited.* Mr. Chipman, having complied with the requirements of Section 10 of the Regulations, asked to receive his call to the Bar of Ontario at the May Convocation.

*Approved*

**FULL-TIME MEMBER OF THE FACULTY OF APPROVED LAW SCHOOL**

The following member of an approved law faculty asked to be called to the Bar and admitted as a solicitor without examination under Regulation 9 respecting full-time members of approved law faculties in Ontario upon payment of a fee of $200.00. A letter confirming the eligibility of the applicant has been received from the Dean of the relevant law school.

| | |
|---|---|
| Graham Eric Parker | LL.B. University of Adelaide, Australia, 1958<br>Called to the Bar in the State of South Australia in 1959 |

Professor Parker was called to the Bar and admitted as a solicitor in Ontario in 1966 under Regulation 9. He resigned from the Society in September 1970 and returned to Australia. He now seeks to be readmitted to the Society. A letter from the applicant is before the Committee.

The Committee recommended that Professor Parker be advised he may attend before a Committee of Benchers.

**PETITIONS**

The Committee considered three petitions from petitioners who had commenced service under articles but whose applications for admission to the Bar Admission Course had been received too late to be accepted in the normal way. All three petitions were granted.

**EXTERNAL EXAMINATIONS**

Two candidates were approved by the Committee to proceed under Regulation 4(2). Two sat the required examination at Osgoode Hall.

The examinations were identified only by numbers and a report of the examiners was before the Committee. Both candidates passed.

**REPORT OF THE EXAMINING BOARD**

The report of the examination held in May, 1977 was before the Committee. Five candidates sat the examination. Three candidates passed and two failed.

It was moved and seconded that consideration of the item *Direct Transfers from Quebec* be suspended pending receipt of the report by the Sub-Committee of the Admissions Committee respecting admission regulations.

*Lost*

**THE REPORT WAS ADOPTED**

. . . . . .

**CALL TO THE BAR**

The following candidates were presented to the Treasurer and Convocation and were called to the Bar, and the degree of Barrister-at-law was conferred upon each of them by the Treasurer:

Daniel Joseph Balena
Gilles Andre Michel Charlebois
Frank Jaksa
Mary Judith Baker Leach
Sidney Irving Lovas

Paul Malcolm Thompson
Richard Achille Anisio
Julian Chipman
Gilbert Douglas Clifford

. . . . . .

**SUB-COMMITTEE (DISCIPLINE) ON DISCIPLINE PROCEDURES IN CONVOCATION**

Mr. R. Ian Cartwright, Chairman, presented the Report of the Sub-Committee (Discipline) on Discipline Procedures in Convocation dated 13th January, 1977, which was tabled at Convocation on 18th February, 1977, and which Convocation directed to stand for consideration with the Report of the Special Committee on Convocation and Election of Benchers. The Report of the latter Committee was dealt with by Convocation on 15th April, 1977 but time did not permit consideration of this Committee's report and it was stood over for consideration at the May Convocation.

Convocation considered the Sub-Committee's Report and voted on each of the recommendations contained therein.

The following is the Sub-Committee's Report with Convocation's disposition of the recommendations incorporated therein:

## REPORT OF THE SUB-COMMITTEE ON DISCIPLINE PROCEDURES IN CONVOCATION

Of the Sub-Committee Messrs. Cartwright (Chairman), Humphrey and Kellock met on Thursday, November 18, 1976 and the full Sub-Committee, Messrs. Cartwright (Chairman), Furlong, Humphrey and Kellock considered this report subsequently in draft form, and of the Sub-Committee Messrs. Cartwright (Chairman), Furlong and Kellock with Mr. O'Brien in attendance by invitation met on Thursday, January 13, 1977 to consider further this report in its final form.

ITEM NO. 1 – Because of the grave importance of discipline matters to both the public and the profession the Sub-Committee suggested that the Treasurer in appropriate

cases exercise his prerogative under Rule 21 (4) of the Rules made under The Law Society Act and require that immediately following the adoption of the minutes of its previous meeting Convocation should then proceed to deal with any Discipline Committee Decision on its agenda. Those members of Convocation who have studied the Discipline Committee's Decision prior to Convocation will have the advantage of having the Decision foremost in their mind when it appears as the initial item of business. Inconvenience to the Solicitor, both counsel, any witnesses, and the shorthand reporter in awaiting the pleasure of Convocation for upwards of one and a half hours should be avoided. In the alternative to avoid this inconvenience these persons should not be required to attend until a specified hour. This is not to derogate from the desirable practice of holding Special Convocations to deal with discipline Decisions.

*Carried*

ITEM NO. 2 – Advance circulation to members of Convocation of the Discipline Committee's Decision has been satisfactorily demonstrated in connection with the three discipline Decisions dealt with by Convocation on Thursday, December 2, 1976. The Sub-Committee was satisfied that the Secretary will be able to ensure prompt and confidential delivery of these Decisions to members of Convocation. Accordingly it was recommended that this procedure be continued.

*Carried*

ITEM NO. 3 – Again, bearing in mind the satisfactory experiment at the Convocation of Thursday, December 2, 1976, it was recommended that the practice of the reading of the Discipline Committee's Decision be discontinued. The appearance to the Solicitor of all members of Convocation considering the Discipline Committee's Decision is more than offset by the possible inattention and waste of time involved in reading the Decision, particularly if Convocation decides to adopt the procedure outlined in Item No. 2 *(supra)* of the advance mailing of Decisions to members of Convocation. In any event this omission will not involve any disadvantage to the Solicitor whose counsel may either request that the Decision be read by the Secretary or may himself read the Decision either in part or in its entirety to support his submissions to Convocation.

*Carried*

ITEM NO. 4 – The Sub-Committee gave considerable thought to the present procedure of two members of Convocation, in the presence of the Solicitor, moving and seconding the acceptance of the Discipline Committee's Decision. Even though the Solicitor may be assured by the Chair that such a motion is being made for the sole purpose of formally placing consideration of the Decision before Convocation and that the Decision has not been discussed prior to his entering Convocation Room it will not dispel the impression in the mind of the Solicitor that regardless of those assurances he has "lost" two members of Convocation. It should be pointed out that Rule 23 of the Rules made under The Law Society Act, provides:

> "The procedure in Convocation shall be in accordance with the rules as far as may be, failing which shall follow parliamentary practice in the Legislative Assembly of Ontario."

and even though the Sub-Committee was advised that the practice of the Legislature does not preclude the mover and seconder from voting against their own motion, disbarment of a Solicitor by a one or two vote margin could leave it open for a Court to conclude that two of the majority votes could have been cast by two members of Convocation who had indicated that they would make a finding adverse to the Solicitor prior to the Solicitor being accorded an opportunity to make any submissions to Convocation. Convocation's decisions are those of the Bench as a whole and any identification of an individual member's apparent viewpoint on any issue should be avoided as well as any possible embarrassment that may be suffered by a member of Convocation having to participate in formally putting the motion in the presence of the Solicitor. Accordingly, the Sub-Committee recommended that every Discipline Committee's Decision, which is a report of a Standing Committee under the Rules of the Law Society, conclude with a paragraph to the effect:

> "Your Committee recommends that this Decision be adopted by Convocation."

with the result that the Decision will be before Convocation in

the form of a report of a Standing Committee, notice of which will have been given to the Solicitor by virtue of him having received a copy of the Decision prior to the sitting of Convocation. This procedure would then leave all motions as to the question of the adoption or acceptance of the Decision to be brought in Convocation after the Solicitor and counsel and the shorthand reporter have withdrawn from Convocation Room after Convocation has heard submissions by both parties.

> It was moved in Convocation, but not seconded, that the words "and evidence, if any," be added after the word "submissions" in the last line of item 4.
>
> *Not put*
>
> It was moved in Convocation and seconded that item 4 be referred back to the Committee for clarification.
>
> *Lost*

Item 4 – *Carried*

ITEM NO. 5 – The last matter considered by the Sub-Committee was the procedure to be adopted by Convocation as to any Order that might be made against the Solicitor in the event that the Discipline Committee's Decision was accepted by Convocation. Under the present procedure the Solicitor is informed of the motion or motions as to penalty and then accorded an opportunity to make submissions. If, during Convocation's subsequent deliberations as to penalty, another motion of more serious consequences is made the Solicitor is required to re-attend and is so advised. He then may choose to make no further submissions, or he may make further submissions, or he may request an adjournment. We are of the view that this procedure is at best cumbersome and contains some of the unfavourable features noted in Item No. 4 *(supra)*.

We recommend that the procedure be adopted whereby if the Discipline Committee's Decision is adopted by Convocation then the Solicitor and both counsel and the shorthand reporter are summoned to re-attend in Convocation Room and after the Chair announces Convocation's decision as to the Discipline Committee's Decision then the Solicitor is accorded the opportunity to make submissions as to the penalty recommended by

the Committee.

It should be noted that the proposed Section 13 of the Regulation (a copy of which was before Convocation) refers only to "submissions" that may be made by the Solicitor, which would leave it open for him to adduce *viva voce* or written evidence and argument towards the question of penalty. If after Convocation retires to consider the recommended penalty any motion be made to impose a more serious penalty the Solicitor shall be required to re-attend and shall be so informed and then be accorded the opportunity to make further submissions or to be granted an adjournment. Only Convocation under Section 34 of The Law Society Act may actually impose a penalty (the Discipline Committee having only the power under present and proposed Regulation 13 to make a recommendation as to penalty) and accordingly Convocation may not deny the Solicitor the opportunity to make full defence in anticipation of any potential Order that may be made by Convocation pursuant to Section 34 of the said Act. To do less than that would in our view amount to a denial of natural justice on the part of Convocation against the Solicitor.

It was moved in Convocation and seconded that item 5 be referred back to the Committee for further consideration.

*Carried*

It was moved in Convocation and seconded that item 5 be deleted from the Report.

*Lost*

Item 5 – *Referred back*

The Sub-Committee recommended that these five procedures be adopted.

**THE REPORT AS AMENDED WAS ADOPTED**

. . . . . .

## LEGAL EDUCATION COMMITTEE (Continued)

Mr. G.D. Finlayson, Chairman, presented the Report of the Legal Education Committee of its meeting on Thursday, 12th May, 1977.

The following members were present: Mr. G.D. Finlayson, Chairman, Mr. J.D. Ground, Vice-Chairman, and Messrs. Brulé, Kellock, Montgomery, Rogers, Salhany and Mrs. Tait.

**BAR ADMISSION COURSE –**
**RIGHT TO REPEAT TEACHING TERM**

The established practice in the Bar Admission Course is that a candidate who has failed is entitled to repeat the teaching term once as of right. The question has arisen as to whether a candidate who has been permitted to take the Bar Admission Course in lieu of passing the transfer examinations under Regulation 4 (1) under The Law Society Act and who fails the Bar Admission Course is entitled as of right to repeat the teaching term of the course once as of right or must such a candidate obtain the leave of the Admissions Committee and through that Committee of Convocation as a condition of being entitled to repeat the Course.

The Committee recommended that the question of the right of a candidate to try the transfer examinations again under Regulation 4 (1) be referred to the Admissions Committee.

**BAR ADMISSION COURSE –**
**GRADING POLICY AND FORMULA**

The existing grading policy and formula in the Bar Admission Course is as follows:

> "All candidates are required to write all regular examinations or, in proper cases, special examinations in lieu thereof.
>
> A candidate fails who:
>
> (i) obtains fewer than 50 marks in three or more examinations, or
>
> (ii) obtains fewer than 50 marks in two or more examinations and less than a 60% average in all examinations.
>
> All other candidates are found to have successfully completed the course."

It is proposed that the above grading policy and formula be replaced with the following:

"All candidates are required to write all regular examinations or, in proper cases, special examinations in lieu thereof. Each candidate must pass each regular examination or special examination in lieu thereof, provided that a candidate who fails not more than three regular examinations or special examinations in lieu thereof, shall be entitled to write and required to pass a supplementary examination or examinations in the section or sections of the course in which such candidate has failed. A candidate must obtain at least 50% of the marks on any examination in order to pass such examination.

A special examination may be written only by a candidate who has not written the regular examination in that section of the course and who establishes either before or at the date that the regular examination is held that he or she is by reason of illness or physical disability or on compassionate grounds unable to write the regular examination. A medical certificate or certificates must be filed to establish illness or physical disability. Save as aforesaid a candidate who fails to write a regular examination shall not be entitled to write the special examination in that section of the Course.

The supplementary examinations shall be held and written in the latter part of the month of April and/or in the month of May next following the completion of the teaching term or at such other time or times as may be determined by the Legal Education Committee.

In order to complete the Bar Admission Course successfully a candidate must pass an examination whether regular, special or supplementary in each section of the Course."

*Approved*

**19TH BAR ADMISSION COURSE –**
**TEACHING TERM TIME-TABLE 1977-78**

A time-table for the 1977-78 teaching term of the 19th Bar Admission Course was submitted for consideration and

approval.

*Approved*

**BAR ADMISSION COURSE AND CONTINUING EDUCATION**

The Committee dealt with a large number of petitions of a routine nature; considered financial statements for the Bar Admission Course; and reviewed a statement setting out the Continuing Education programmes presented during the month of April 1977 and the publications report for the month of April 1977.

**BAR ADMISSION COURSE LEASE OF LONDON PREMISES**

The lease of the Society's premises in London dated July 5th, 1976 has now been executed by all parties, namely The Roman Catholic Episcopal Corporation of the Diocese of London in Ontario, lessor, The Law Society of Upper Canada, lessee, and The Board of Governors of the University of Western Ontario, third party.

*Noted*

. . . . . .

**CONVOCATION ADJOURNED FOR LUNCHEON AT 12:40 P.M.**

. . . . . .

The Benchers had as their guest for luncheon His Honour Judge Frank W. Callaghan, Senior Judge of the Judicial District of York.

. . . . . .

**CONVOCATION RESUMED AT 2:30 P.M.,**
**A QUORUM BEING PRESENT**

. . . . . .

**LEGAL EDUCATION COMMITTEE (Continued)**

Convocation resumed consideration of the Report of the

Legal Education Committee.

**THE REPORT WAS ADOPTED**

. . . . . .

## FINANCE COMMITTEE–Mr. Pallett

Mr. J.C. Pallett, Chairman, presented the Report of the Finance Committee of its meeting on Thursday, 12th May, 1977.

The following members were present: Messrs. Pallett (Chairman), Brulé, Fennell, Ground, Ogilvie, Pepper and R.F. Wilson.

### ROLLS AND RECORDS

*Appointments to the Bench*

The following members have been honoured by their appointments to judicial office and their membership in the Society will be placed in abeyance upon their assuming office:

| | |
|---|---|
| William Gordon Richards<br>Toronto | Called – 21 March 1969<br>Appointed Provincial Judge, Criminal Division, County of Peel – 6 April 1977 |
| John Edward Charles Robinson, Q.C.<br>Toronto | Called – 23 June 1955<br>Appointed Provincial Judge, Criminal Division, County of Halton – 6 April 1977 |
| Lloyd Alvin Woods, Q.C.<br>Kingston | Called – 19 June 1952<br>Appointed County Court Judge, County of Victoria – 1 December 1976 |

*Noted*

*Deaths*

The following members have died:

| | |
|---|---|
| Frank Clifton Teskey<br>Clarkson<br>(Life Member) | Called – 17 June 1920<br>Deceased – 3 April 1977 |

| | |
|---|---|
| Albert Oscar L. Burnese, Q.C.<br>Scarborough<br>(Life Member) | Called – 18 January 1923<br>Deceased – 9 April 1977 |
| John Stafford Haze Beck<br>Toronto | Called – 20 June 1929<br>Deceased – 9 April 1977 |
| Henry Harry Eckler, Q.C.<br>Toronto | Called – 20 September 1945<br>Deceased – 10 April 1977 |
| The Hon. S.S. Garson, P.C., Q.C.<br>Winnipeg<br>(former Federal Minister of Justice) | Called – 29 June 1949<br>Deceased – 4 May 1977 |
| Douglas Ross Nairn<br>Goderich | Called – 18 September 1930<br>Deceased – 17 April 1977 |
| Joseph Flavelle Barrett, Q.C.<br>Toronto | Called – 21 September 1939<br>Deceased – 9 May 1977 |
| Clifford Joseph Whitney, Q.C.<br>Waterloo | Called – 15 March 1945<br>Deceased – 10 May 1977 |

*Noted*

**MEMBERSHIP UNDER RULE 50 – RETIRED MEMBERS**

The following members who are sixty-five years of age or over and who are fully retired from the practice of law and other employment requested permission to continue their membership in the Society at a reduced annual fee of $25:

James Ross MacBrien – Toronto
George Arthur Marron – Meaford

*Approved*

*Robert James Booth,* of Ottawa, who is sixty-five years of age or over and who is fully retired from the practice of law and other employment submitted his application to continue his membership in the Society at a reduced annual fee of $25.00 beginning with the fee period 1977-78.

*Approved*

**MEMBERSHIP UNDER RULE 50 – INCAPACITATED MEMBERS**

*Donald Robert Todd,* of Cambridge, who is 56 years of age, requested consideration of his application under the new provision of Rule 50 which allows a disabled member to continue his membership in the Society at a reduced annual fee

of $25. A medical report from Dr. Carl C. Mackie was submitted in support of the application.

Mr. Todd was Called to the Bar on 29th June, 1950.

*Approved*

**CHANGE OF NAME**

*Stanley Frank Bogucki,* a solicitor practising in Mississauga, requested that his name be changed on the Rolls of the Society to Stanley Frank *Boguski.* A copy of the Order of His Honour Judge West dated the 13th of April 1977 was before the Committee.

*Approved*

**SALARIES**

The report of the Sub-Committee on Salaries was before the Committee.

*Approved*

**ESTIMATES**

The Committee requested that all committees have preliminary estimates prepared for the financial year 1977/78 and review these estimates at their meetings on June 9th, 1977.

*Noted*

**THE LAW FOUNDATION OF ONTARIO**

Since its inception in 1974, The Law Foundation of Ontario has occupied office space in Osgoode Hall. The Society has made no charge for the use of this space.

Employees working on Law Foundation matters occupy approximately 300 square feet. It was recommended that the Society charge the Foundation $4,000 per annum for the use of this space, inclusive of all services and that this charge be made effective from January 1st, 1977.

*Approved*

**HEATING**

An invoice from the Ministry of Government Services in the amount of $83,006 has been presented to the Society to

cover the cost of heat, power, lighting and allied services to the Society's part of Osgoode Hall for the year ended February 1977. This is an increase of $28,310 over the cost for the previous year – an increase of over 50% per annum. Mr. Heeney advises that almost $24,000 of the increase is due to the higher costs of fuel.

The Account was before the Committee for approval, together with a letter dated April 21st, 1977, from Mr. Heeney.

*Approved*

**REPORTS OF STANDING COMMITTEES**

Reports of standing committees are prepared as soon as possible after meeting date. Copies are mailed to each bencher (or delivered by hand to close locations), so that benchers may review the reports prior to Convocation. Due to delays in the mails, it has become increasingly difficult to have these reports in the benchers' hands in time to be of any use. The Committee was asked to consider whether a courier service should be used to guarantee delivery of the reports and for the cost of this service to be included in the 1977/78 Budget.

The Committee recommended that the committee reports be sent to the benchers by courier service.

**LIBRARIES AND REPORTING COMMITTEE**

**Barristers' Library**
**145 Queen Street West**

At its meeting on 12th May, 1977, the Libraries and Reporting Committee considered a letter from Mr. Heeney, the Society's Architect, in which he stated that in his opinion an air conditioner-humidifier is necessary for the preservation of the law books and recommended that, subject to the approval of this Committee, a HiRoss Denco unit be purchased at a cost of approximately $5,400.

*Approved*

**County Law Libraries**

*Annual Grants*

The Chief Librarian presented a memorandum listing

those law associations which had sent in their Annual Returns for 1976 and setting out the amounts of the grants to which they appear to be entitled under the Regulation in 1976 and 1977. The Libraries and Reporting Committee approved these grants at its meeting on 12th May, 1977, subject to the approval of this Committee.

*Approved*

**THE REPORT WAS ADOPTED**

. . . . . .

## DISCIPLINE COMMITTEE–Mr. Lochead

### GENERAL

Mr. G.H. Lochead, Chairman, presented the General Report of the Policy Section of the Discipline Committee of its meeting on Thursday, 12th May, 1977.

The following members were present: Messrs. Lochead (Chairman), Carnwath (Vice-Chairman), Furlong, Kellock and Mrs. Sutherland.

The Committee considered several matters and the appropriate instructions were given.

**THE REPORT WAS RECEIVED**

. . . . . .

### COMPENSATION FUND SUMMARY

Mr. Lochead presented the Summary of the Compensation Fund for the period ended 30th April, 1977.

## COMPENSATION FUND

**For the Period 1st July, 1976 to 30th April, 1977**

**(10 months)**

| | |
|---|---|
| TOTAL RECEIPTS | $ 377,127.88 |
| TOTAL DISBURSEMENTS | $ 474,053.27 |
| EXCESS OF DISBURSEMENTS OVER RECEIPTS | $ (96,925.39) |
| BALANCE OF FUND at beginning of period | $1,486,468.30 |
| BALANCE OF FUND at end of period | $1,389,542.91 |

### RESUME OF GROSS CLAIMS OUTSTANDING

| | |
|---|---|
| CLAIMS RECEIVED and in the course of being processed as of 30th April 1977 | $3,188,913.51 |
| TOTAL PAID to 30th April 1977 from the commencement of the Fund on account of 990 claims of 107 former solicitors | $3,961,894.44 |

**THE SUMMARY WAS RECEIVED**

. . . . . .

## LEGAL AID COMMITTEE–Mr. Bowlby

Mr. J.D. Bowlby, Chairman, presented the Report of the Legal Aid Committee of its meeting on Wednesday, 11th May, 1977.

The following members were present: John D. Bowlby, Chairman, and Messrs. Barnes, Carnwath, Chadwick, Mrs. Fleming, Messrs. Hamer, Harris, Mrs. Jarmain, Mr. Jones, Dr. Lamb, Messrs. Levinter, Lewis, Montgomery, Ogilvie, Russell, Shaffer, Mrs. Smyth, Mr. Wallace.

A.C. Whealy, Solicitor, Toronto, was in attendance as an observer from the Criminal Lawyers Association.

Also in attendance by special invitation was Mrs. Gretta Grant, Area Director, Middlesex, Oxford and Perth Counties.

## REPORT OF THE DEPUTY DIRECTOR

### *(a) Finance*

The Director's report, pursuant to Section 95 (2), for the 12 month period ended March 31, 1977, shows that payments from the Legal Aid Fund exceeded budget by $114,000 as follows:

| **Over Budget** | $ | $ |
|---|---|---|
| Civil certificate accounts | | 287,000 |
| **Under Budget** | | |
| Criminal certificate accounts | 12,000 | |
| Duty Counsel payments | 42,000 | |
| Community clinic funding | 35,000 | |
| Area Office costs | 30,000 | |
| Provincial Office costs | 54,000 | 173,000 |
| **Total payments in excess of budget** | | 114,000 |
| Excess payments were financed by a reduction in the Fund balance (opening minus closing) | 14,000 | |
| and in the following income amounts received in excess of that which was anticipated: | | |
| Law Foundation | 75,000 | |
| Client contributions and costs | 4,000 | |
| Miscellaneous income | 21,000 | |
| | | 114,000 |

### *(b) Statistics*

The following table compares reported activity for the fiscal year ended March 31, 1977, with the activity for the previous fiscal year:

| | *12 Month Period Ended* | | *% Change from* |
|---|---|---|---|
| | *Mar. 31, 1976* | *Mar. 31, 1977* | *Last Year* |
| Informal Applications | 96,056 | 94,875 | + 1.2 |
| Applications for Certificates | 103,177 | 107,193 | – 3.7 |
| Refusals | 32,062 | 28,522 | + 12.4 |
| Certificates issued | 76,649 | 86,486 | – 11.4 |
| Persons assisted by Duty Counsel | 158,426 | 153,043 | + 3.5 |

*(c) Annual Report of the Director*

The Annual Report of the Director for the year ended March 31st, 1977, pursuant to Section 96 of the Regulation, was approved by the Committee.

*(d) Write-Offs*

George E. Wallace, Q.C., Vice-Chairman, approved the write-off of the following total of amounts due to the Legal Aid Fund: $6,250.94

**REPORT OF THE LEGAL ACCOUNTS OFFICER**

*(a) Reviews*

| | *April 1977* | *1 Month to April 30/77* | *1 Month to April 30/76* |
|---|---|---|---|
| Reviews on hand at beginning of | 238 | | |
| Reviews received in | 122 | 122 | 123 |
| | 360 | | |
| Settlements reviewed in | 65 | 65 | 127 |
| Settlements awaiting review at end of | 285 | | |
| Settlements awaiting further information at end of | 10 | | |
| | 360 | | |

*(b) Appeals*

| | *February* | *March* | *April* |
|---|---|---|---|
| Appeals to Taxing Master received during April | | | 5 |
| Appeals heard by Taxing Master | – | 4 | 1 |
| Appeals pending at the end of the month | 5 | 2 | 6 |

*(c) Activity*

| | *1977/78 Fiscal Year* | | *1976/77 Fiscal Year* | |
|---|---|---|---|---|
| | *Month of April 1977* | *1 Month to April 1977* | *Month of April 1976* | *1 Month to April 1976* |
| Accounts on hand at beginning | 4657 | 4657 | 5087 | 5087 |
| Accounts received | 4981 | 4981 | 5567 | 5567 |
| Total Accounts to be processed | 9638 | 9638 | 10654 | 10654 |
| Less: Files Cancelled | 29 | 29 | 43 | 43 |
| Accounts Processed | 4508 | 4508 | 5637 | 5637 |
| Balance | 5101 | 5101 | 4974 | 4974 |

The above figures do not reflect accounts for Interim Disbursements and Supplementary Payments.

**DELIVERY OF LEGAL AID SERVICES TO PERSONS IN REMOTE NORTHERN COMMUNITIES**

In November, 1976, Convocation approved a report on the delivery of Legal Aid services to persons in remote northern communities. The report among other recommendations proposed a pilot project which would authorize employment and training of native persons as paralegals under the direction of a legally trained person. The pilot project would commence in Thunder Bay, Kenora and Rainy River districts. It was recommended that the programme be extended to other areas as experience dictated.

The Attorney General was forwarded a copy of the report and advised that the Legal Aid Committee intended to proceed with the recommended pilot project by April 1st, 1977.

In a letter dated March 18th, 1977, the Attorney General wrote the Chairman of the Legal Aid Committee indicating that this approach to the problems of delivery was not acceptable to the native people. The Attorney General indicated that alternative approaches be explored which would secure the confidence of the native people.

As a result of the Attorney General's letter, the Sub-Committee on Delivery of Legal Aid Services to Persons in Remote Northern Communities, under the chairmanship of

George E. Wallace, met on May 11th with Mr. Stan Jolly, the recently appointed Co-ordinator of the Advisory Council to the Ministry of Justice, and examined the position of the Native Council. A further meeting is to follow with the hope of meeting finally with the Council itself in June.

**APPOINTMENT OF ADMINISTRATIVE ASSISTANT FOR HAWKESBURY OFFICE**

Complaints had been received from the Bar and the Bench in the United Counties of Prescott and Russell regarding the availability of Legal Aid for residents of those counties.

The Area Director for Ottawa-Carleton, Mr. James B. Chadwick, who is responsible for the administration of Legal Aid in Prescott and Russell, conducted an investigation and found that the problem resulted primarily from the inability of the Ministry of Community and Social Services to perform the financial assessment function. In addition, there were some problems with respect to staffing of the Legal Aid office in Hawkesbury.

The Committee approved Mr. Chadwick's proposal that a new staff member be hired for the Hawkesbury office with the title of Administrative Assistant and that that person be appointed an Assessment Officer pursuant to the provisions of the Ontario Legal Aid Act.

**CLINICAL FUNDING COMMITTEE**

On April 28th, 1977, the Clinical Funding Committee met to recommend to the Director, subject to the approval of Convocation, the issuance of a clinical certificate to seven independent community service groups for the purpose of subsidizing the said community service groups. In accordance with the Regulation, the clinical certificate is for a period not exceeding one year and the Committee will report to the Director the terms and conditions of approval for each of the said groups.

The Director recommended to Convocation that the report of the Clinical Funding Committee for clinical funding for the fiscal year commencing April 1st, 1977, be adopted.

**LEGAL AID COMMITTEE**

S.R. Ellis, Solicitor, was asked several months ago whether he might be interested in replacing Lyle Fairbairn as a member of the Legal Aid Committee. Mr. Ellis indicated that his position as Director of Parkdale Community Legal Services created certain difficulties. However, Mr. Ellis wrote to the Director on April 29th, 1977, advising that he would complete his tenure as Director at the end of June and expressing renewed interest in becoming a committee member.

The Committee unanimously recommended that S.R. Ellis, Solicitor, be appointed a member of the Legal Aid Committee.

**PROPOSED FEE INCREASE**

In February, Convocation approved a recommendation of the Legal Aid Committee that the reduction of 25% presently made by solicitors on their accounts rendered to the Legal Aid Plan be reduced to 10%.

The Committee at its April meeting reviewed correspondence from the Attorney General commenting on the aforementioned proposal and the Chairman undertook to answer the Attorney General's letter.

**AREA COMMITTEES**

Section 4 (1) of The Legal Aid Act provides that the Law Society may appoint a Legal Aid Committee for an area.

The Committee recommended the following be appointed as members of the Area Committee in:

**Wellington County**

Cavan Brian Acheson, Solicitor, Fergus
Paul Nelson, Solicitor, Guelph
Ronald Noble, Solicitor, Guelph

**THE REPORT WAS ADOPTED**

. . . . . .

## PROFESSIONAL CONDUCT COMMITTEE–Mr. Cooper

Mr. A.M. Cooper, Chairman, presented the Report of the Professional Conduct Committee of its meeting on Thursday, 12th May, 1977.

The following members were present: Messrs. Cooper (Chairman), Kellock (Vice-Chairman), Carrier, Carnwath, Chappell, Lochead, Strauss, Mrs. Sutherland and Mr. Tobias.

1. The publisher of the journal "Industrial Property" asked that their publication be approved as a proper vehicle for the insertion of lawyers' cards. Members of three Ottawa law firms, Scott & Aylen, Barrigar & Oyen, and Herridge, Tolmie have written to the Society in support of the publisher's application for approval. The Committee instructed the Secretary to advise that subject to a proper application being made by the publisher they could see no objection to the publication being approved.

2. Mr. J.A. Ostrowski, who is in the process of purchasing the practice of the late E.V. Matura, has written asking if it would be proper to show on his letterhead and professional card below his name something to the effect of "successor to E.V. Matura" or "formerly the practice of E.V. Matura". The Committee instructed the Secretary to advise that if the purchase was closed, exception under Ruling 10 (7) was granted for the use of the words "formerly the practice of E.V. Matura".

3. John W. Cram wrote to the Society with respect to the number of legal announcements that he states have appeared in the London Free Press within the last year. In the opinion of the Committee Ruling 16 (4) which reads as follows:

> "A member or firm may circulate among the profession or among his or its clients or publish in any newspaper in Ontario, announcements in good taste, without photographs, (other than at the time of call to the Bar), containing only information pertaining to his or its practice such as to change of office hours, change of address or of personnel."

requires that announcements be limited to information relevant to the specific purpose of the announcement in question. By way of example, announcements which contain a list of the names of all the lawyers practising with the firm or the location of branch offices where such information is not reasonably necessary for the purpose of the announcement may be objectionable.

4. In the Committee's July 1975 report to Convocation the following item appeared:

> Mr. W.D. Crone, Registrar, The Real Estate and Business Brokers Act, had requested a ruling as to whether or not it would be deemed proper for a practising lawyer to be registered as a real estate broker. Apparently he had received several inquiries in this connection from members of the profession over the past few months. Your Committee was of the opinion that it would be improper for a practising lawyer to be registered as a real estate broker, since one cannot professionally sell real estate without dealing with people who would ultimately as vendors and purchasers, require legal services. If such people then became clients of the real estate agent-lawyer, the latter could find him or herself continually involved in situations where there were potential conflicts of interest.

The Society has now received an enquiry from Miss Penelope Bell a member of the profession concerning her intent to become a real estate agent. The Committee instructed the Secretary to advise that it was of the opinion that upon receipt of an undertaking from Miss Bell not to practise or to use the term barrister and solicitor and not to communicate in writing that she is a barrister and solicitor, it could see nothing objectionable to her practising as a real estate agent.

5. Mr. Jeffrey C. Goldberg wrote to the Society asking for advice. He was concerned about an insurance agent recommending to the agent's clients that they obtain wills through either one of two named lawyers, one of whom is Mr. Goldberg. The Committee instructed the Secretary to advise that it could see nothing wrong with what the agent is doing so long as nothing is done by the solicitor to instigate or encourage such

action by the agent.

## 6. SUB-COMMITTEE ON COMMUNICATION BY COUNSEL WITH WITNESSES GIVING EVIDENCE

At its March 1976 meeting the Committee had before it a report of the above named Sub-Committee. One amendment having been made, the report was then forwarded on to Convocation for consideration. Subsequently, with the approval of Convocation, a Notice to the Profession setting out the eight numbered paragraphs in the report was published in the Ontario Reports. As a result of correspondence from members of the profession the Sub-Committee met again. The result of their deliberations was reflected in a Supplementary Report. After due consideration of the Supplementary Report the Committee now recommended that the following provisions be applicable with respect to communications by counsel with witnesses giving evidence:

1. *During examination in chief by counsel of his own witness:* it is not improper for counsel to discuss with the witness any matter that has not been covered in the examination before such discussion.

2. *During examination in chief by other counsel of his witness who is not sympathetic to the counsel's cause:* it is not improper for counsel (not conducting the examination in chief) to discuss the evidence with such a witness.

3. *Between completion of examination in chief and commencement of cross-examination of counsel's own witness:* there ought to be no discussion of the evidence given in chief or relating to any matter introduced or touched upon during the examination in chief.

4. *During cross-examination by opposing counsel:* counsel ought not to have with his witness under cross-examination any conversation respecting the evidence of the witness or relative to any issue in the proceeding.

5. *Between completion of cross-examination and commencement of re-examination:* counsel whose witness is to be re-examined by him ought not to have any discussion respecting evidence that will be dealt with on re-examination.

6. *During cross-examination by counsel of a witness not sympathetic to the cross-examiner's cause:* it is not improper for such counsel to discuss with such a witness the evidence of that witness.

7. *During cross-examination by counsel of a witness who is sympathetic to that counsel's cause:* in this case conversations ought to be restricted as in the case of communications during examination in chief of one's own witness.

8. *During re-examination of witness called by opposing counsel:* if the witness is sympathetic to the counsel's cause there ought to be no communication relating to the evidence to be given by that witness during re-examination. If the witness is adverse in interest it does not seem improper for counsel to discuss the evidence of that witness with him.

The Sub-Committee in its Supplementary Report also recommended as follows:

1. If these rulings are adopted by the Professional Conduct Committee it should be made clear to the profession that they are intended to apply as a guide for the conduct of counsel in all court and analogous proceedings such as examinations for discovery, appearances before administrative tribunals, and in criminal and civil proceedings subject to any Ruling of the court or tribunal in which they are to be applied. It should be made clear to the profession that these rulings are not now a "rule of professional conduct" but are an expression of opinion to the members of the Society as to how they should conduct themselves in the circumstances referred to in the ruling and for an indefinite transitional period they are to be accepted as a guide suggested by the Society it being the intention of the Professional

Conduct Committee that after a "trial and error" period these rules may be reviewed with a view to embodying them in the code of professional conduct.

2. If the Committee and Convocation accept and adopt this report the next publication for the benefit of the profession should include the preamble and closing comments in the original report of this Sub-Committee to you; the comments contained therein might deal with most of the objections submitted by members of the profession.

The Committee concurred in these recommendations.

**THE REPORT WAS ADOPTED**

. . . . . .

## LIBRARIES AND REPORTING COMMITTEE–Mr. Seagram

Mr. C.J. Seagram, Chairman, presented the Report of the Libraries and Reporting Committee of its meeting on Thursday, 12th May, 1977.

The following members were present: Messrs. Seagram (Chairman), Chappell, Farquharson, Rogers, Salhany, Strauss, Mrs. Tait and Mr. White, and Miss A.R. McCormick.

## GREAT LIBRARY

### GIFTS AND DONATIONS

The following donation to the Great Library was received:

| | |
|---|---|
| L.G. O'Connor, Q.C., Chatham | Four hundred volumes, consisting of 362 volumes of Reports, 34 volumes of Digests and 4 Texts |

*Noted*

**BOOK LIST**

A list of books recently purchased was submitted.

*Approved*

**GREAT LIBRARY**

The Secretary submitted a letter from Robert S. Montgomery, Q.C., asking whether there was any contingency plan in the event of a fire. The Chief Librarian outlined the contingency plan if a fire took place. The Committee recommended that Mr. Jarvis and the Chief Librarian have a meeting with the insurance underwriters of the Society concerning the contingency plan.

**BARRISTERS' LIBRARY**
**145 QUEEN STREET WEST**

The Secretary submitted a letter from Mr. Heeney, the architect for the Law Society, in which he stated that in his opinion an air conditioner-humidifier is necessary for the preservation of the law books. The Committee recommended that subject to the approval of the Finance Committee a HiRoss Denco unit be purchased at a cost of approximately $5,400.

## COUNTY LAW LIBRARIES

**COUNTY LAW ASSOCIATIONS**

The Committee heard a submission from William Litwiller of the Hamilton Law Association requesting a special grant of $9,000 for 1977. The Committee asked Mr. Litwiller to forward a written submission to the Chief Librarian so that the Committee could give further consideration to this matter at its next meeting.

**ANNUAL GRANTS**

The Associations listed below have sent in their Annual Returns for the year 1976. The amounts of the grants to which they are entitled under the Regulation in 1976 and 1977 are as follows:

| | *1976* | *1977* |
|---|---|---|
| Durham | $2,000.00 | $2,000.00 |
| Essex | 2,000.00 | 2,000.00 |
| Halton | 2,000.00 | 2,000.00 |
| Lambton | 2,000.00 | 2,000.00 |
| Lincoln | 2,000.00 | 2,000.00 |
| Peterborough | 1,930.00 | 2,000.00 |
| Renfrew | 1,355.00 | 1,495.00 |

*Approved,* subject to the approval of the Finance Committee.

## REPORTING

### CANADA LAW BOOK CONTRACT

The Committee considered a letter from Canada Law Book Limited tendering a quotation for publishing the Ontario Reports. The Committee recommended that Mr. Burnett check the quotation with the quotation of May 1976.

**THE REPORT WAS ADOPTED**

. . . . . .

## UNAUTHORIZED PRACTICE COMMITTEE–Mr. White

Mr. J.G.M. White, Chairman, presented the Report of the Unauthorized Practice Committee of its meeting on Thursday, 12th May, 1977.

The following members were present: Messrs. White (Chairman), Fennell, Furlong, Seagram, Strauss and Tobias.

1. The Secretary reported that a solicitor had forwarded a transcript of a Small Claims Court hearing in which there was evidence that an individual had been advising petitioners concerning undefended divorces. The Secretary was instructed to telephone the solicitor who complained and if there is a divorce case which has been dealt with by this person within the six months' limitation period, the matter should be referred to

counsel for an opinion as to a possible breach of Section 50 of The Law Society Act.

2. The Secretary reported that he was in receipt of a letter from His Honour Judge Hugh Honsberger concerning an individual who carried on a divorce kit agency. The Secretary reported that he had spoken to the petitioner and that this individual had drafted pleadings for her. The Secretary was instructed to retain counsel for an opinion as to whether there was sufficient evidence of a contravention of Section 50 of The Law Society Act for a prosecution.

3. The Secretary reported that he had received a letter from counsel for the Law Society concerning a wills kit agency. The Secretary was instructed to ascertain whether the individual carrying on the wills kit agency had given legal advice concerning wills contrary to Section 50 of The Law Society Act.

4. The Secretary reported that he had received a letter from a solicitor complaining about an advertisement which appeared in a Toronto newspaper indicating that the individual would type all forms for an application to incorporate including minutes, resolutions, by-laws and registers. The Secretary was instructed to have this matter investigated to see whether legal advice was given contrary to Section 50 of The Law Society Act to individuals incorporating companies.

5. The Secretary submitted a letter from a solicitor complaining that an individual appeared to be acting as a consultant in bankruptcy matters. The Secretary was instructed to refer this matter to counsel for an opinion as to a possible contravention of Section 50 of The Law Society Act if the evidence indicated that the events had taken place within the six months' limitation period.

**THE REPORT WAS RECEIVED**

. . . . . .

## LEGISLATION AND RULES COMMITTEE–Mr. Cartwright

Mr. R. Ian Cartwright, Chairman, presented the Report of the Legislation and Rules Committee of its meeting on Wednesday, 11th May, 1977.

The following members were present: Messrs. Cartwright (Chairman), Common, Furlong, and Mrs. Legge.

### BAR ADMISSION COURSE – RULE 50 AND SECTION 26(7) OF THE REGULATION

The Legal Education Committee Report which was approved on the 18th of February 1977, contained the following item:

> "BAR ADMISSION COURSE – DATE FOR FILING APPLICATIONS OF STUDENT MEMBERS, RULE 50 AND REGULATION 26 (7):
>
> Regulation 26 (7) provides that an applicant for admission as a student member in the Bar Admission Course shall file a completed application and supporting documents on or before the fourth Friday in the month of July and Rule 50 provides for a fee of $101, upon becoming a student member of the Society, payable upon filing application on or before the fourth Friday in the month of July. Rule 50 further provides that in case an application for admission is filed late, an additional fee of $10 is payable for the first day and $1 for each day thereafter, to a maximum of $100. The said final day for filing applications and payment of the fee has been unenforceable in practice because a student is required to file articles of clerkship with his or her application and in many instances articling arrangements are not made until the end of August. In practice, therefore, the end of August has for some years been treated as the final day for filing applications and payment of the fee, although the regulation and the rule have not been so amended. It is recommended that the regulation and the rule be so amended to provide that applications be filed and the

fee paid on or before the 31st day of August to bring these provisions in keeping with the permissible period of articles under Regulation 26 (4)(a).

*Approved"*

The Committee recommended that the phrase "the fourth Friday in the month of July" in subsection 7 of section 26 of the Regulation and in the paragraph under the heading "Student Members" in Rule 50 be deleted and there be substituted therefor the phrase "the 31st day of August" with the result that the said subsection will read as follows:

26. – (7) An applicant for admission as a student member in the Bar Admission Course shall,

(a) if proceeding under subsection 5, file with the director on or before the 31st day of August,

(i) a completed application,

(ii) a certificate of graduation from a law course in a university in Canada which is approved by Convocation,

(iii) a certified copy of pre-law university record, and

(iv) articles of clerkship; or

(b) if proceeding under subsection 6, file with the director,

(i) a completed application, and

(ii) such material as is required by subsection 3 of section 4.

**ERRORS AND OMISSIONS INSURANCE PLAN – RULE 50**

The Report of the Special Committee on Errors and Omissions Insurance which was adopted by Convocation on the 21st day of January 1977, stated that Mr. O'Brien had drawn to the attention of its members the rule-making power under section 54 (1) (13) of The Law Society Act which reads:

"54. (1) Subject to section 55, Convocation may make rules relating to the affairs of the Society and, without limiting the generality of the foregoing,

. . . .

(13) prescribing fees and levies for members and student members or any class of either of them, and providing for the payment and remission thereof and exempting any class of either of them from all or any part of such fees or levies."

The Report further stated that:

" No rule has been passed under that section specifically covering the levy for professional liability insurance. Mr. O'Brien suggested that a rule be passed making it clear that the prescribed levy can exceed the amount needed to cover the premium and also authorizing the surplus in the Society's Errors and Omissions Fund in any year being carried forward into the next year. Your Committee so recommends. Attached hereto is an amendment to Rule 50 which already covers other fees and levies."

The Committee reviewed the draft amendment to Rule 50 and recommended that the said Rule be amended by adding thereto a further section under the heading "Indemnity for Professional Liability" following the section headed "Re-Admission" and coming before the section headed "Miscellaneous".

**OTHER AMENDMENTS TO RULE 50**

(a) Under the heading "Occasional Appearances", the following paragraph appears:

"When the call and admission fee is paid, an additional fee of $5 is payable for a certificate of fitness, which additional fee shall be paid over to the Registrar of the Supreme Court."

The Registrar of the Supreme Court of Ontario no longer requires payment of such a fee. Accordingly, your Committee recommends that this reference be deleted from this Rule.

(b) In the paragraphs under the headings of "Annual" and "Compensation Fund", the amounts of $110 and $30 respectively are set out. While the $30 figure is this year the actual amount of the Compensation Fund levy, the figure of $110 is much less than the annual fee for 1976-77. Since Rule 50 is being amended with respect to other of its provisions, the question has been raised as to whether these two fees which vary from year to year should be set out in the Rule or there should be simply a reference to the fee being "in such amount as Convocation may from time to time determine".

The Committee recommended that the said paragraphs be amended accordingly.

(c) On March 18th, 1977, Convocation adopted the Reports of the Legal Education Committee and the Finance Committee increasing the tuition fees for student members for the Bar Admission Course to $575 commencing with the teaching term in September 1977.

The Committee recommended that the second paragraph in Rule 50, under the heading "Student Members" be amended accordingly.

(d) The Report of the Finance Committee which was adopted by Convocation on the 18th of February 1977, contained the following item:

"MEMBERSHIP AT A REDUCED ANNUAL FEE – INCAPACITATED MEMBERS

At its meeting on the 13th January 1977, the Committee considered the position of members who through accident or illness are permanently disabled from practice but who cannot take advantage of the reduced membership fee of $25.00 because they have not attained the age of 65 years.

The matter arose in this instance from a letter written on behalf of Mr. William M.H. Colvin, Q.C., which was before the Committee.

Your Committee's recommendation at that time was that such members be permitted to continue their membership in the Society without payment of fees or levies.

Your Committee has now reconsidered whether such members should be placed in the same category as retired members over the age of 65 years and pay a reduced annual fee of $25.00 and so recommends."

This Committee recommended that the heading of the paragraph headed "Retired Members" be amended to read "Retired and Incapacitated Members" and that the paragraphs be amended accordingly.

As a result of all these amendments, Rule 50 reads as follows:

FEES

**50.** The following fees and levies are payable to the Society in the circumstances, at the times, and in the amounts specified:

STUDENT MEMBERS

| | |
|---|---|
| Upon becoming a student member of the Society, payable upon filing application on or before the 31st day of August . . . . . (In case an application for admission is filed late, an additional fee of $10 is payable for the first day and $1 for each day thereafter, to a maximum of $100.) | $ 101 |
| Upon commencing the teaching period of the Bar Admission Course, payable on or before the 1st day of September of the year in which the teaching period is commenced . . . . . | $ 575 |

TRANSFER MEMBERS

| | |
|---|---|
| Upon becoming a member of the Society under the Transfer Regulations, payable upon filing application | $ 101 |
| Upon examination before the Examining Board . . . . . | $ 100 |
| Upon second examination before the Examining Board | $ 25 |

## CALL AND ADMISSION

*General*

For Call to the Bar and admission as a solicitor of candidates from the Bar Admission Course or under the Transfer Regulations, payable on or before the first day of the month in which the candidate intends to be called and admitted ..... $ 210

For Call to the Bar and admission as a solicitor of,

(a) deans of approved law schools after they have entered upon the second consecutive year in such position; or

(b) other full-time members of the faculties of such law schools after they have entered upon the third year in such position,

payable upon filing application ..... $ 200

## OCCASIONAL APPEARANCES

For Call to the Bar and admission as a solicitor to act as counsel in a specific proceeding, payable upon filing application ..... $ 100

## ANNUAL

An annual fee is payable by every barrister and solicitor on or before the 30th day of November in each year in such amount as Convocation may from time to time determine.

## COMPENSATION FUND

A Compensation Fund levy is payable by every barrister and solicitor on or before the 30th day of November in each year in such amount as Convocation may from time to time determine.

## RETIRED AND INCAPACITATED MEMBERS

Any member who,

(a) is over 65 years of age and is permanently retired; or

(b) is permanently disabled,

may apply to continue his membership in the Society at a reduced annual fee of ..... $ 25

Any former member who,

(a) resigned his membership in the Society prior to the effective date of this rule but would have been entitled to apply to continue his membership under this rule had it been in force at the date of his resignation; and

(b) has permanently retired but wishes to resume his membership in the Society,

may apply to the Society to have his membership restored at the reduced annual fee of $25 without payment of a re-admission fee.

Convocation may allow any application under this rule upon such terms and subject to such conditions as it may prescribe.

So long as a member is entitled to pay a reduced annual fee, he is not liable to pay any Compensation Fund levy.

## RE-ADMISSION

For re-admission to membership in the Society payable upon filing application ..... $ 100

## INDEMNITY FOR PROFESSIONAL LIABILITY

A levy for indemnity for professional liability to be used for an insurance fund to cover insurance premiums, reserves, group deductibles, adjusting costs, counsel and legal fees, administration costs and other expenses reasonably incurred in connection with indemnity for professional liability payable by every member who engages in active practice in any year to be paid to the Society at such time and in such amount in any year as Convocation may from time to time determine as follows:

By any member who engages in practice during January, February, or March in any year except those called to the Bar in March of any year ..... 100% of the prescribed levy;

By any member who was called to the Bar and commences practice in March of any year 75% of the prescribed levy;

By any member who commences practice in April, May or June of any year ..... 75% of the prescribed levy;

| | |
|---|---|
| By any member who commences practice in July, August or September of any year .... | 50% of the prescribed levy; |
| By any member who commences practice in October, November or December of any year | 25% of the prescribed levy. |

The following are eligible to apply for exemption from payment of the levy:

(a) Full-time counsel or solicitor to the Government of Ontario or of Canada or to any corporation, a Crown Attorney, City Solicitor or law teacher, unless in any year the member engages in practice apart from such employment;

(b) Any member not engaging in practice during the year in respect of which the levy is prescribed.

If at the end of any year the insurance fund is not entirely used up the surplus remaining shall be carried forward into the next year.

MISCELLANEOUS

| | |
|---|---|
| Special petitions ..... | $ 5 |
| Certificate of good standing ..... | $ 2 |
| Transcript of class standing and rating in individual subjects ..... | $ 2 |
| Additional copies ..... | $ 1 |
| Duplicate diploma ..... | $ 2 |
| Letter certifying that a member is in good standing .. | $ 1 |

**THE REPORT WAS RECEIVED**

. . . . . .

**MOTION – AMENDMENTS TO THE LAW SOCIETY ACT, REGULATION AND RULES**

It was moved, seconded and *carried* that the amendments set forth in the Report of the Legislation and Rules Committee be adopted.

. . . . . .

**SPECIAL COMMITTEE ON
THE OSGOODE HALL FENCE**

Mr. P.B.C. Pepper presented the Report of the Special Committee on the Osgoode Hall Fence of its meeting on Thursday, 12th May, 1977.

The following members were present: Messrs. O'Brien (Chairman), Fennell and Pepper. Mr. Arthur Heeney, the Society's Architect, attended at the Chairman's invitation.

Mr. Heeney presented his letter of 29th April, 1977, reporting on progress with the renovation of the fence.

The renovated fence has been erected on the east and west returns, painted with a base coat but not the final black paint coat. It has not been put up on the Queen Street frontage yet. This will be proceeded with and it is expected to be finished by the end of the year.

**THE REPORT WAS RECEIVED**

. . . . . .

**LETTER FROM THE EXECUTIVE SECRETARY,
THE SUPREME COURT OF CANADA
RE: CONSULTATIVE COMMITTEE ON
SUPREME COURT OF CANADA RULES**

The Treasurer referred to a letter dated 16th May, 1977, received from Mr. James M. Mabbutt, Executive Secretary to the Supreme Court of Canada, advising that the Registrar of the Court had established a Consultative Committee to look into the Supreme Court Rules including questions relating to the tariff and possible revisions to the Supreme Court Act, and that members of the Society are invited to communicate their views on practice and procedure to the Registrar.

. . . . . .

## NEW BUSINESS

### CRIMINAL CODE – PROPOSED AMENDMENTS RE: AUTHORITY TO INTERCEPT PRIVATE COMMUNICATIONS

As a matter of new business, Mr. Cooper raised the question as to whether the Society would make representations to the Government respecting the proposals of the Minister of Justice to extend the number of occasions when wiretapping can be authorized.

Convocation directed that this matter *stand* to permit the Treasurer and Secretary an opportunity to ascertain the facts respecting both the criminal and civil situations relative to wiretapping.

. . . . . .

**CONVOCATION ROSE AT 4:40 P.M.**

. . . . . .

Read in Convocation and confirmed 17th day June, 1977.

W. GIBSON GRAY

Treasurer

THE LAW SOCIETY OF UPPER CANADA

# Minutes of Convocation

Volume 2 Number 5

Members wishing to receive the Minutes of Convocation are asked to complete the form below and send it to the Society.

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The Secretary,
The Law Society of Upper Canada,
Osgoode Hall,
Toronto, Ontario
M5H 2N6

I would like to receive the Minutes of Convocation at the address below:

Name .....

Address .....

.....

.....

# MINUTES OF CONVOCATION
## (ABRIDGED)

Friday, 17th June, 1977
10:00 a.m.

**PRESENT:**

The Treasurer (Mr. W. Gibson Gray) and Messrs. Bowlby, Brulé, Bynoe, Carnwath, Carter, Carthy, Cass, Cartwright, Chadwick, Chappell, Common, Cooper, Farquharson, Fennell, Finlayson, Furlong, Goodman, R.J.S. Gray, Ground, Henderson, Kellock, Mrs. Legge, Messrs. Linden, Lochead, Montgomery, Ogilvie, Pallett, Pepper, Rogers, Seagram, Sheard, Shepherd, Shibley, Strauss, Mrs. Sutherland, Messrs. Thom, Tobias, Wallace, White and Willoughby.

. . . . . .

**MINUTES**

The Minutes of Convocation of 15th April and 20th May, 1977 were read and confirmed.

. . . . . .

**NON-ATTENDANCE OF BENCHER –**
**F.J.L. EVANS, Q.C., HAMILTON**

The Secretary reported that Mr. *F.J.L. Evans* of Hamilton had missed six consecutive regular Convocations: 19th November, 1976; 21st January, 18th February, 18th March, 15th April and 20th May, 1977. He presented copies of his letters of 23rd February and 2nd June, 1977, to Mr. Evans giving the notice required by Rule 25(1) and (2) of The Law Society Act.

It was moved, seconded and *carried* that no action be taken and that Convocation's good wishes for his speedy recovery be conveyed to Mr. Evans.

. . . . . .

**APPOINTMENT OF AUDITOR**

It was moved, seconded and *carried* that Messrs. *Clarkson, Gordon & Company* be appointed Auditors of the Society for the period of one year from 1st July, 1977.

. . . . . .

**CANADIAN BAR ASSOCIATION –**
**APPOINTMENT OF REPRESENTATIVES**

It was moved, seconded and *carried* that the *Treasurer* and Mr. *R.W. Cass* be appointed the Society's representatives on the Council of the Canadian Bar Association to take office at the end of the Annual Meeting of the Association in 1977.

. . . . . .

**FEDERATION OF LAW SOCIETIES OF CANADA –**
**APPOINTMENT OF REPRESENTATIVES**

It was moved, seconded and *carried* that the *Treasurer* and the *Secretary* be appointed the Society's representatives to the Federation of Law Societies of Canada.

. . . . . .

**RULES COMMITTEE, S.C.O. –**
**APPOINTMENT OF REPRESENTATIVES**

It was moved, seconded and *carried* that Messrs. *W.A. Derry Millar, G.D. Finlayson* and *R.J. Rolls* be appointed the Society's representatives on the Rules Committee, S.C.O., for the three-year term commencing 1st July, 1977.

. . . . . .

**ANNUAL MEETING**

It was moved, seconded and *carried* that the Annual Meeting of the Society for 1977 take place on Thursday, 20th

October, 1977, at 10:00 a.m., in Convocation Hall at Osgoode Hall.

. . . . . .

**REMEMBRANCE DAY SERVICE –
TIME AND PLACE**

It was moved, seconded and *carried* that the Society's Remembrance Day Service be held on Thursday, 10th November, 1977, at 12:30 p.m., at the Society's Second World War Memorial in the Main Rotunda at Osgoode Hall.

. . . . . .

**MOTIONS –
THE HONOURABLE JEAN-PIERRE GOYER, P.C., Q.C.,
FORMER SOLICITOR GENERAL OF CANADA**

(a) Call to the Bar

It was moved, seconded and *carried* that pursuant to Section 1 of The Barristers Act, R.S.O., 1970, c.39, The Honourable Jean-Pierre Goyer, a former Solicitor General of Canada, be this day called to the Bar of Ontario, without complying with the rules of the Society as to admission, examination, payment of fees, or otherwise.

(b) Honorary Membership

It was moved, seconded and *carried* that pursuant to Rule 48(1) under The Law Society Act, The Honourable Jean-Pierre Goyer, a former Solicitor General of Canada, be made an honorary member of the Society until such time as he may wish to assume active practice within the province.

. . . . . .

**CONFERENCE WITH COUNTY AND DISTRICT
LAW ASSOCIATIONS: TIME AND PLACE 1977**

The Treasurer announced that he had fixed Friday, 4th November, 1977, at 10:00 a.m., in Convocation Hall at Osgoode

Hall as the time and place for the annual meeting of the Chairmen and Vice-Chairmen of the Standing Committees with representatives of the county and district law associations and representatives of the approved law faculties in the province.

. . . . . .

**MEETING OF THE TREASURER AND THE CHAIRMEN AND VICE-CHAIRMEN OF STANDING COMMITTEES**

The Treasurer presented the Report of the Meeting of the Treasurer and the Chairmen and Vice-Chairmen of the Standing Committees which took place on Thursday, 16th June, 1977.

The following were present: The Treasurer (Chairman) and Messrs. Brulé, Carnwath, Cartwright, Cooper, Finlayson, Furlong, Ground, Mrs. Legge, Messrs. Linden, Lochead, Pallett, Pepper, Tobias and Willoughby.

They recommended that the constitution of the Standing Committees for the ensuing year be as follows:

1. **FINANCE**: Brulé, Farquharson, Fennell, Ground, Henderson, O'Brien, Ogilvie, Pallett, Pepper, Sheard, Shepherd, Wilson.

2. **LEGAL EDUCATION**: Brulé, Carthy, Cartwright, Finlayson, R.J.S. Gray, Ground, Henderson, Kellock, Montgomery, Outerbridge, Rogers, Shepherd, Shibley, Tait, Thom.

3. **ADMISSIONS**: Brulé, Cass, Finlayson, R.J. S. Gray Ground, Henderson, Legge, Pallett, Pepper, Sheard, Shepherd, Sutherland, White.

4. **DISCIPLINE**: All members of Convocation

   – POLICY SECTION: Bynoe, Carnwath, Carrier, Cartwright, Cass, Cooper, Evans, Finlayson, Furlong, Humphrey, Kellock, Lochead, Sutherland, Willoughby, Zahoruk.

5. **PROFESSIONAL CONDUCT**: Bowlby, Bynoe, Carnwath, Carrier, Chappell, Cooper, Fennell, Goodman, Kellock, Lochead, Outerbridge, Strauss, Sutherland, Tobias, Zahoruk.

6. **LIBRARIES AND REPORTING**: Chappell, Farquharson, Goodman, Rogers, Salhany, Seagram, Shibley, Strauss, Tait, Wallace, White, Willoughby.

7. **UNAUTHORIZED PRACTICE**: Carter, Chadwick, Evans, Furlong, Legge, Pallett, Seagram, Strauss, Tobias, White.

8. **PUBLIC RELATIONS**: Bowlby, Carthy, Linden, Outerbridge, Tait, Tobias, Wallace, Williston, Willoughby.

9. **LEGISLATION AND RULES**: Cass, Cartwright, Common, Furlong, Legge, Shibley, Wilson.

10. **LEGAL AID**: Bowlby, Carnwath, Carter, Chadwick, Finlayson, Goodman, Humphrey, Levinter, Linden, Montgomery, Ogilvie, Salhany, Wallace.

– NON-BENCHERS: R.E. Barnes, E.A. Cherniak, S.R. Ellis, L.K. Ferrier, C.R. Harris, Bernard Shaffer.

**THE REPORT WAS ADOPTED**

. . . . . .

**CONVOCATION ADJOURNED** to allow the Standing Committees to meet for the election of Chairmen and Vice-Chairmen, and **RESUMED** following the election.

. . . . . .

**ELECTION OF CHAIRMEN AND VICE-CHAIRMEN**

The reports of the Standing Committees as to the election of Chairmen and Vice-Chairmen were adopted as follows:

1. **LEGAL EDUCATION**: Chairman – G.D. Finlayson; Vice-Chairmen – J.D. Ground; G.F. Henderson.

2. **ADMISSIONS**: Chairman – P.B.C. Pepper; Vice-Chairman – Laura L. Legge.

3. **FINANCE**: Chairman – J.C. Pallett; Vice-Chairman – J.A. Brulé.

4. **DISCIPLINE**: Chairman – G.H. Lochead; Vice-Chairmen – B.C. Bynoe; J.D. Carnwath.

5. **LEGAL AID**: Chairman – J.D. Bowlby; Vice-Chairmen – J.B. Chadwick; A.M. Linden.

6. **PROFESSIONAL CONDUCT**: Chairman – A.M. Cooper; Vice-Chairmen – H.G. Chappell; B.H. Kellock.

7. **LIBRARIES AND REPORTING**: Chairman – C.J. Seagram; Vice-Chairman – N. MacL. Rogers.

8. **UNAUTHORIZED PRACTICE**: Chairman – J.G.M. White; Vice-Chairman – P.B. Tobias.

9. **PUBLIC RELATIONS**: Chairman – G.E. Wallace; Vice-Chairman – L.S. Willoughby.

10. **LEGISLATION AND RULES**: Chairman – R.I. Cartwright; Vice-Chairman – P.G. Furlong.

. . . . . .

**APPOINTMENTS TO SPECIAL COMMITTEES**

The Treasurer reported changes in the following Special Committees:

*(i) Special Committee on J. Shirley Denison Bequest*

The Treasurer informed Convocation that Mr. Pepper has been appointed Chairman of the Special Committee on J. Shirley Denison Bequest in place of Mr. Sheard and that Mr. Willoughby has been added as a member. The Committee as reconstituted will consist of the following: Messrs. Pepper

(Chairman), Carthy, Cass, Sedgwick, Sheard and Willoughby.

*(ii) Special Committee on Errors and Omissions Insurance*

The Treasurer announced that he has added Messrs. Montgomery and Outerbridge to the Special Committee on Errors and Omissions Insurance in place of Messrs. Linden and Shibley so that the Committee now consists of: Messrs. Carthy, (Chairman), Kellock, Mrs. Legge, Messrs. Levinter, Montgomery, O'Brien, Outerbridge and Wallace.

*(iii) Special Committee on Muniments and Memorabilia*

The Treasurer informed Convocation that he had named Mrs. Legge as Chairman of the Special Committee on Muniments and Memorabilia in place of Mr. Sedgwick and appointed Mr. Ogilvie and Mrs. Tait to replace Messrs. Shepherd and Weir. The Committee as reconstituted consists of the following: Mrs. Legge (Chairman), Messrs. Ogilvie, Pepper, Sedgwick and Mrs. Tait.

. . . . . .

**APPOINTMENT OF SPECIAL COMMITTEE ON REMEMBRANCE DAY SERVICE**

The Treasurer announced that Messrs. Sheard and Goodman had been re-appointed to constitute the Special Committee respecting the Society's observance of Remembrance Day.

. . . . . .

**SPECIAL COMMITTEE ON THE INCORPORATION OF LAW PRACTICES**

Mr. S.E. Fennell, Chairman, presented the Report of the Special Committee on the Incorporation of Law Practices of its meeting on Thursday, 9th June, 1977.

The following members were present: Mr. Fennell (Chairman), Messrs. Ground and Thom.

The Chairman reviewed the Committee's previous reports to Convocation. The matter has been in abeyance since 1972.

Members of the legal profession and certain other professions in Ontario have traditionally been at a severe tax disadvantage vis-à-vis persons carrying on a small business or a profession (e.g. engineering) in a corporate form in the Province by virtue of the prohibition against incorporation by lawyers. The disadvantage becomes readily apparent when one appreciates that the top marginal rate of tax for an individual in Ontario is approximately 61% (exclusive of surtax) whereas a Canadian-controlled private corporation carrying on business in Ontario will pay tax of 24% (combined federal and Ontario) on its first $150,000 of active business income up to a cumulative maximum of $750,000. The disadvantage will be somewhat greater if certain of the proposals contained in the recent federal budget become law.

Under the present law, an individual practitioner earning $75,000 from his law practice will pay personal income tax on the full $75,000 (less personal exemptions, R.R.S.P. contribution and other deductions – assume $11,000) at personal tax rates of up to 56.57%, resulting in total tax of approximately *$29,500.* Assuming that the practitioner requires $50,000 before-tax income to meet his living expenses and the remaining $25,000 is income which is invested by him, he would, if incorporated, pay personal rates of tax on the $50,000 paid to him by the corporation by way of salary (less personal exemptions, R.R.S.P. contribution and other expenses – assume $11,000) but would pay tax only at the rate of 24% on the remaining $25,000 left in the corporation, the total tax being approximately *$21,000.* The funds accumulated in the corporation at a 24% tax rate (subject to the maximum cumulative total of $750,000) could be invested by the corporation (the investment income of the corporation being taxed at a rate of 48%) and ultimately paid out by the corporation to the individual following his retirement when his personal tax rate is considerably lower than the rate payable by him while in active practice.

If the recent federal budget resolutions become law beginning in 1978, there will be an added tax advantage if a substantial amount is paid out of the corporation to the practitioner by way of dividends. For example, if the total income from the practice was $75,000 and the practitioner paid himself a salary of $27,500 (to permit the maximum R.R.S.P.

contribution of $5,500) and dividends of $14,000, and assuming the same deductions totalling $11,000, his personal tax would be approximately $5,600. The corporation would pay tax of $11,400 resulting in total tax payable of approximately *$17,000.*

Using the above example for illustration purposes it can be seen that under the present tax system and being unincorporated, the net after-tax income in the hands of the practitioner is $45,000; under the present tax system but being incorporated, the net after-tax income in the hands of the practitioner and the corporation would be $59,000; and under the new tax system and being incorporated, the net after-tax income of the practitioner and the corporation would be $63,000. There are, of course, to be some taxes payable in the future when monies are paid out of the corporation to the individual; if the pay-out is post-retirement and the pay-out is by way of dividends, the rate of tax, particularly under the recent budget resolutions, will be relatively low.

Section 3(3) of the Ontario Business Corporations Act provides that a corporation may be incorporated to practise a profession if the Act governing such profession expressly permits the practice of such profession by a corporation. In the Province of Alberta pursuant to the Attorney General's Statutes Amendment Act, 1975 (No. 2) provision was made for the practice of law by professional corporations which met certain conditions. A copy of a letter from the President of The Law Society of Alberta to all members of The Law Society of Alberta outlining the provisions relating to such professional corporations has been considered and also a letter from Mr. T.A. Sweeney, Chairman of a committee of The Canadian Bar Association recommending that Convocation approve in principle the practice of law in Ontario by professional corporations under conditions similar to those applicable in the Province of Alberta.

It should be pointed out that the corporations incorporated by the individual partners in a firm would become the partners of the firm for partnership purposes, that the incorporation does not result in limited liability for the member for professional negligence or other liability arising in the practice of his profession, that the incorporation in no way affects the

fiduciary, confidential and ethical relationship between the lawyer and his client, that the corporation could pay to the practitioner sufficient additional salary to permit him to take advantage of R.R.S.P. contributions and in addition, could establish a deferred profit sharing plan for the practitioner with contributions up to the amount of $3,500 per year. The individual's partnership interest or proprietorship assets would be transferred into the corporation by way of a roll-over under Section 85 or other Sections of the Income Tax Act without any tax cost resulting to the individual practitioner. Incorporation might also be used as an estate planning vehicle with all the voting shares held by the practitioner but non-voting growth shares held by members of his family.

There are two fairly serious tax disadvantages which may affect a number of practitioners. For practitioners who are carrying forward a reserve for 1971 receivables, this deferral may be lost upon incorporation. In addition, the income which the practitioner receives by way of salary and dividends from the corporation will be taxed on a calendar year basis and the tax deferral resulting from using fiscal year ends other than the calendar year will be lost with respect to this income in the first year of incorporation. One further slight disadvantage is that capital losses up to $1,000 (to be increased under the recent federal budget to $2,000) which may be applied by an individual against his income from other sources cannot be so applied when incurred by a corporation.

The Committee recommended that Convocation

1. approve in principle the practice of law in this Province by professional corporations provided the personal liability and responsibility of the individual lawyer is not hereby limited;

2. refer to the Legislation and Rules Committee the question of the necessary amendments to The Law Society Act, Regulations and Rules, the Solicitors Act and Rulings of the Professional Conduct Committee to permit the practice of law to be carried on in the Province of Ontario by professional corporations; and

3. give your Committee authority to retain counsel to assist the Legislation and Rules Committee if necessary and to discuss with Revenue Canada the tax status of such corporations.

**THE REPORT WAS ADOPTED**

. . . . . .

## ADMISSIONS COMMITTEE–Mr. Pepper

Mr. P.B.C. Pepper, Chairman, presented the Report of the Admissions Committee of its meeting on Tuesday, 17th May, 1977, with respect to the application for readmission of Stuart Beverley Scott.

The Committee met on Tuesday, 17th May, 1977, at 10:00 a.m. to consider an application for readmission from a former member of The Law Society of Upper Canada. The following members were present: Mr. P.B.C. Pepper, Chairman, Mrs. L. L. Legge, Vice-Chairman, Mr. Ground and Mrs. Sutherland.

*Stuart Beverley Scott*

The applicant and his counsel, Mr. Victor S. Paisley, attended before the Committee.

The applicant was called to the Bar and admitted as a solicitor on 10th April, 1964. He was disbarred on 21st April, 1967.

The Committee gave careful consideration to the evidence produced before it respecting the applicant's fitness to be readmitted and recommended that he be readmitted upon

(i) his successful completion of the teaching portion of the Bar Admission Course and,

(ii) his giving an undertaking that, without the express approval of Convocation, he will not practise on his own and will have no authority to sign cheques drawn on any Trust Account.

The Committee further recommended that Convocation permit the employment of the applicant by a lawyer or law firm, in some capacity other than that of a lawyer, during the period prior to his entering the Bar Admission Course in September of 1977.

The applicant attended in Convocation with his counsel, Mr. Paisley.

Counsel asked that the terms of the applicant's re-admission and his undertaking be varied to provide that he be readmitted without first completing the teaching portion of the Bar Admission Course but on the undertaking that he would not engage in the private practice of law without first having successfully completed the teaching portion of the Bar Admission Course.

The applicant and counsel withdrew.

It was moved and seconded that clause (i) of the recommendation contained in the Committee's Report be deleted and that clause (ii) be amended by the addition of the words "he will not practise law without having successfully completed the teaching portion of the Bar Admission Course but even then he will not practise . . . ." after the words "undertaking that" in the first line of clause (ii) so that it reads "his giving an undertaking that he will not practise law without having successfully completed the teaching portion of the Bar Admission Course but even then he will not practise on his own and will have no authority to sign cheques drawn on any Trust Account."

*Lost*

It was moved and seconded that the recommendation be amended to provide that the applicant be admitted to student membership in the Society.

*Lost*

**THE REPORT WAS ADOPTED**

. . . . . .

Mr. Pepper presented the Report of the Admissions Committee of its meeting on Thursday, 9th June, 1977.

The following members were present: Mr. P.B.C. Pepper, Chairman, Mrs. L.L. Legge, Vice-Chairman, Messrs. Cass, Ground and Mrs. Sutherland.

**CALL TO THE BAR AND CERTIFICATE OF FITNESS**

**SPECIAL**

FORMER SOLICITOR GENERAL OF CANADA

By Resolution of Convocation, 17th June, 1977

The Honourable Jean-Pierre Goyer, P.C., Q.C.

**BAR ADMISSION COURSE**

The following candidates, having successfully completed the Eighteenth Bar Admission Course, filed the necessary documents and paid the required fee of $210, applied for Call to the Bar and to be granted Certificates of Fitness:

Thomas Bruce Robson
Jeffrey Paul Shankman

*Approved*

**TRANSFER FROM ANOTHER PROVINCE**

The following candidates, having passed the examinations set by the Examining Board, filed the necessary documents and paid the required fee of $411, applied for Call to the Bar and to be granted Certificates of Fitness:

| | |
|---|---|
| Janet Glyde Hone | Provinces of Manitoba and British Columbia |
| Bruce Verchere | Province of British Columbia |

*Approved*

The following candidate, having passed the comprehensive examination on Common Law and the examination set by the Examining Board, filed the necessary documents and paid the required fee of $511, applied for Call to the Bar and to be granted a Certificate of Fitness:

| | |
|---|---|
| Avrum Paul Orenstein | Province of Quebec |

*Approved*

**CALL TO THE BAR FOR OCCASIONAL APPEARANCE**

The Committee recommended that the following be allowed to proceed under the Admissions Committee's Regulation 10 concerning "Occasional Appearances in Ontario of Lawyers from other Provinces" and that upon giving the necessary undertakings he be called to the Bar and admitted as a solicitor:

| | |
|---|---|
| Claude-Armand Sheppard | Province of Quebec |

*Approved*

**ADMISSION OF STUDENTS-AT-LAW**

Five candidates, having complied with the relevant Regulations, paid the required admission fee of $101, and filed the necessary papers, applied for admission to the Law Society as students-at-law in the Bar Admission Course as of 1st September, 1976. Three applied under Regulation 26(5), one under Regulation (5) and one under Regulation 4(2).

*Approved*

**CALL TO THE BAR –**
**29TH MARCH 1977**

Before the Call to the Bar ceremony took place, the Society was informed that one candidate did not fulfil the requirement of good character, having been convicted of a criminal offence. The candidate was advised that the Call to the Bar could not take place until the Committee had been supplied with full information and was satisfied that the requirement of good character had been met.

The candidate attended before the Committee with counsel. The Society was also represented.

The Committee proceeded with the hearing of the candidate's application. Counsel for the candidate adduced oral evidence through several witnesses, including the candidate. The Reasons for Sentence of the Judge at the candidate's trial were filed with the Committee. Both counsel made submissions.

The Committee gave most careful consideration to the evidence before it and to the submissions made by counsel and recommended that the application be deferred until the

completion of the candidate's probationary period, which runs from 11th March, 1977 for two years, the members of this Committee *not* to remain seised of the matter.

**DIRECT TRANSFERS FROM QUEBEC**

The Committee considered and approved seven applications from Quebec solicitors for direct transfer to practise in Ontario under Regulation 4(2).

**FULL-TIME MEMBERS OF FACULTIES OF APPROVED LAW SCHOOLS**

Two members of approved law faculties asked to be called to the Bar and admitted as solicitors without examination under Regulation 9 respecting full-time members of approved law faculties in Ontario upon payment of a fee of $200. Letters confirming their eligibility have been received from the deans of the relevant law schools for the following applicants:

| | |
|---|---|
| Emil Joseph Hayek | Bachelor of Laws, Charles University, Prague, 1947<br>Doctor of Laws (J.D.) Charles University, Prague, 1949 |
| Stanley Mathew Makuch | B.A. University of Toronto, 1967<br>M.A. Carleton University, 1968<br>LL.B. University of York, 1971<br>Master of Laws, Harvard University, 1972 |

*Approved*

**OCCASIONAL APPEARANCES**

*Claude-Armand Sheppard* of the Bar of the Province of Quebec applied to proceed under Section 10 of the Regulation "Occasional Appearance in Ontario" of lawyers from other Provinces in the case of *The Queen v. Rene Boissey*. Mr. Sheppard, having complied with the requirements of Section 10 of the Regulations, asked to receive his Call to the Bar of Ontario at the June Convocation.

*Approved*

*Bernard J. Rodrigue* of the Bar of the Province of Manitoba applied by letter received on June 6th to proceed under Section 10 of the Regulation "Occasional Appearances in Ontario" of lawyers from other Provinces. He has been retained by a Manitoba resident to act in a civil suit in Ontario arising out of a motor accident.

*Approved*, subject to supplying a Certificate of Good Standing and the required undertaking.

**THE REPORT WAS ADOPTED**

. . . . . .

**CALL TO THE BAR**

The following candidates were presented to the Treasurer and Convocation and were called to the Bar, and the degree of Barrister-at-law was conferred upon each of them by the Treasurer:

Jean-Pierre Goyer
Thomas Bruce Robson
Jeffrey Paul Shankman
Janet Glyde Hone
Bruce Verchere
Avrum Paul Orenstein
Claude-Armand Sheppard

. . . . . .

**LEGAL EDUCATION COMMITTEE–Mr. Finlayson**

Mr. G.D. Finlayson, Chairman, presented the Report of the Legal Education Committee of its meeting on Thursday, 9th June, 1977.

The following members were present: Mr. G.D. Finlayson, Chairman, Mr. J.D. Ground, Vice-Chairman, and Messrs. Brulé, Carthy, R.J.S. Gray, Montgomery and Salhany.

**BAR ADMISSION COURSE – APPEALS FROM FAILURE**

This item was on the May agenda of the Committee and the Committee recommended that an appeal from failure in the Bar Admission Course should be made under Section 27(4) of The Law Society Act to a Committee of Benchers appointed by Convocation. At the May Convocation this item was referred back to the Committee for further consideration.

The Committee recommended that the opinion of legal counsel be obtained with respect to the following questions:

(1) What right of appeal, if any, has a student member of the Society from failure in the Bar Admission Course; and

(2) If the student member has a right of appeal from such failure does The Statutory Powers Procedure Act apply to the appeal proceeding?

**STUDENT MEMBERS PERMISSIBLE ROLES IN LEGAL PRACTICE**

The following item was on the May agenda of the Committee and the Committee made the following recommendations:

"Two recent developments have raised the issue of permissible roles and involvement of student members of the Society in legal practice. The first concerns the question of the Court appearances which may be made by a student under articles and the issue has been raised by a decision of a District Court Judge in Fort Francis who ruled that under Section 196(3) of The Small Claims Court Act a student-at-law has no jurisdiction to appear in the Small Claims Court where the sum in dispute exceeds $400. The second development concerns the permissible roles of a student member of the Society in performing para-legal services while not serving under articles of clerkship. This issue was raised by a student member in Kingston offering para-legal services at a published schedule of rates to lawyers following the conclusion of the articling term. The relevant correspondence and memoranda are placed before the Committee for consideration and such action as is considered necessary.

– With respect to the first question, the Committee recommended that Convocation make submission to the Attorney General recommending that Section 196(3) of The Small Claims Court Act be amended to include articled students-at-law.

With respect to the second question, the Committee recommended that this matter be referred to the Professional Conduct Committee."

At Convocation the Chairman agreed to review the matters in which students-at-law are permitted to engage and the whole question was therefore referred back to the Committee. There were two separate matters to be considered. Firstly, the role of the articling student during his or her articling term while acting under the instruction and supervision of the principal. Secondly, the role of the student member of the Law Society during the hiatus period between completion of his or her articling term and the commencement of the teaching term of the Bar Admission Course. One particular matter which the Committee was asked to consider in this context was the reception received by students acting as counsel on bail applications.

The Committee recommended the following:

(1) The two recommendations made in the Committee's May Report be again made in these specific matters.

(2) That the general question of the permissible roles of the student serving articles and the student in the hiatus period stand over for further consideration.

(3) That the question of bail applications be referred to the Chairman to confer with Chief Judge Hayes and report.

**ARTICLING – ONTARIO ASSOCIATION OF ARTICLING COMMITTEES**

The Ontario Association of Articling Committees composed of student representatives of the six Ontario law schools submitted to the Treasurer and to the Chairman four resolutions concerning the articling requirements in the Bar Admission Course, adopted by that Association at a meeting held

in Toronto on March 5th, 1977. The Association's letter dated May 17th, 1977 was before the Committee. The Association asked that the Law Society consider the resolutions and their implementation.

The Committee recommended that the Treasurer write to the Ontario Association of Articling Committees advising that the matters raised in their letter have been fully considered, that Resolutions 1 to 3 have been noted and that the Society does not deem it feasible to take action with respect to Resolution 4.

**BAR ADMISSION COURSE SCHOLARSHIPS AND PRIZES**

An offer was received from Harcourts Limited to donate an annual prize in the sum of $500, to be known as the "Harcourts Advocacy Award" to be presented to the student in the Bar Admission Course attaining the highest combined marks in Civil Procedure I, Civil Procedure II, Family Law, Criminal Procedure and Creditor's and Debtor's Rights.

*Approved*

**SPECIAL CONVOCATION FOR CALL TO THE BAR CEREMONIES 1978**

It was proposed that the Special Convocation for the Call to the Bar ceremonies for the successful candidates in the 19th Bar Admission Course be held in Toronto on Thursday and Friday, April 6th and 7th, in London on Monday, April 10th, and in Ottawa on Tuesday, April 11th, 1978, subject to the availability of suitable accommodation in each of the three centres on the said dates.

*Approved*

**BAR ADMISSION COURSE AND CONTINUING EDUCATION**

The Committee dealt with eight petitions of a routine nature; considered financial statements for the Bar Admission Course; and reviewed a statement setting out the Continuing Education programmes presented during the month of May 1977 and the publications report for the month of April 1977.

**THE REPORT WAS ADOPTED**

. . . . . .

**CONVOCATION ADJOURNED FOR LUNCHEON AT 12:40 P.M.**

. . . . . .

The Treasurer and Benchers had as their guests for luncheon The Honourable Jean-Pierre Goyer; Dean Harry W. Arthurs of Osgoode Hall Law School of York University; Mr. Barry Brooks, Ontario Commissioner of The Canadian Red Cross Society; and Mr. Bernard Shaffer, Q.C., of Thunder Bay.

. . . . . .

**CONVOCATION RESUMED AT 2:30 P.M.**

. . . . . .

**PRESENT:**

The Treasurer and Messrs. Bowlby, Bynoe, Carnwath, Carthy, Cass, Chappell, Common, Fennell, Finlayson, Furlong, Ground, Henderson, Kellock, Mrs. Legge, Messrs. Linden, Lochead, Montgomery, Ogilvie, Pallett, Pepper, Seagram, Shepherd, Shibley, Mrs. Sutherland, Messrs. Thom, Tobias, Wallace, White and Willoughby.

. . . . . .

**LEGAL EDUCATION COMMITTEE (Continued)**

Mr. Finlayson presented the Interim Report of the Sub-Committee of the Legal Education Committee formed to review the Bar Admission Course and related areas of Legal Education.

The Sub-Committee composed of Mr. J.J. Carthy, Chairman, and Messrs. Brulé, R.J.S. Gray, Ground, Kellock and Thom has met on five occasions since its first Interim Report

dated April 15th, 1976.

The Sub-Committee prepared and distributed to the members of the Law Society a report dated May 31st, 1976 requesting members of the Society to express their views on the role of the Bar Admission Course and legal education in Ontario generally. Eighty responses were received and these were considered and discussed by the Committee. While the Bar Admission Course in its present form was both supported and opposed there was a preponderant view that some changes in the Course and in the whole legal education process ought to be made. A number of members of the practising bar who had responded to the report met with the Sub-Committee at a meeting held at Osgoode Hall on December 9th, 1976 and oral submissions were made.

On March 11th, 1977 the Sub-Committee convened a meeting of the Deans of the Ontario Law Schools, the Heads of Sections of the Bar Admission Course and representatives of the Ontario Legal Education Council. At this meeting there was an indepth exchange of views concerning the respective roles of the law schools and of the Law Society in the legal education of lawyers and of the need for improved means of communication between the law schools and the Bar Admission Course with a view to possible better integration of the courses and improved co-operation in the education process. Two positive results flowed from this meeting. Firstly, there will be an exchange of course material between the Bar Admission Course and the law schools pursuant to which the Law Society will send to each of the law school libraries a copy of each of the Bar Admission Course materials as the same are revised and printed during the next teaching term and thereafter, and in addition a copy of each of the materials published as part of the Society's Continuing Legal Education programmes. It is understood that the law schools will make these materials readily available to teaching faculty and to students for reference and information purposes. The law schools in turn will furnish the Director of the Bar Admission Course with a list of the courses taught by each member of the faculty on the understanding that information respecting the law school course content and copies of teaching materials used in any course will be available to the Director and the Heads of Sections of the Bar Admission Course. Secondly, arrangements have been made for meetings

between representative members of the law school teaching faculties in the several areas of law and practice and the Head of Section of the Bar Admission Course responsible for that area of law and practice in the Bar Admission Course programme. Both of these arrangements have been approved by the Legal Education Committee and by Convocation, and Convocation authorized payment of the reasonable travelling and other expenses of the proposed meetings.

Arrangements for a number of these meetings are going forward and it is expected they will be held after the opening of the next academic year.

The Sub-Committee is continuing its consideration of the future format of the Bar Admission Course and its role in the total process of the education of candidates for the practice of law and will report further on the recommendations which it feels advised to make.

**THE REPORT WAS RECEIVED**

. . . . . .

Mr. G.F. Henderson, Vice-Chairman, presented the Report of the Legal Education Committee with respect to its meetings on 13th September, 1976 and 18th April, 1977 to consider the Special Petitions of an unsuccessful student in the Seventeenth Bar Admission Course.

The following members were present: Messrs. Henderson (Chairman), Ground, Brulé, Cartwright, Rogers, Thom and Mrs. Tait.

The Committee considered carefully psychiatric and other evidence respecting the petitioner and his performance of the examination which he had failed, but concluded that the petitions must be denied.

Mr. Finlayson took no part in the discussion following the presentation of the Report and did not vote.

**THE REPORT WAS RECEIVED**

. . . . . .

## SPECIAL COMMITTEE ON CONVOCATION AND ELECTION OF BENCHERS

Mr. W.B. Common, Chairman, presented the Report of the Special Committee on Convocation and Election of Benchers dated 8th June, 1977 with respect to those items referred back to the Special Committee at the April Convocation.

Convocation considered the Report and voted on each of the recommendations contained therein.

The following is the Special Committee's Report with Convocation's disposition of the recommendations incorporated therein:

The matters referred back to the Special Committee for further study and recommendation were dealt with at a meeting of the Committee composed of Mr. Common (Chairman) and Messrs. Ground, Furlong and Ogilvie held on the 13th May, 1977 and at a meeting of the Committee composed of Mr. Common (Chairman) and Messrs. Furlong, Ogilvie and Wallace held on 8th June, 1977.

Reference is made to the Report of the Committee which was before Convocation in April under the number and subject used in that Report.

### 1. ELECTION OF BENCHERS

*(d) Information Concerning Candidates*

Convocation approved the recommendation of the Committee, but directed that details should be worked out and submitted to Convocation and that the Committee give further consideration to a Professional Conduct ruling to prohibit campaign material of an unprofessional or commercial character and submit its recommendation.

After due discussion the Committee recommended:

(A) That the sample "lay out" before Convocation which would be typeset by the printer be approved. The submission of a photograph of a candidate shall be optional on his or her part.

The Committee obtained quotations for the costs of such "lay out" as of June 8, 1977, all subject to taxes, if any; estimated mailing costs, if included with ballot, of $2,160; and increase in all costs by the time of the next election of Benchers. Based on 150 candidates and a mailing of 12,000, the "lay out" recommended in (A) would cost the Society $8,577.28 as of June 8, 1977.

It was moved and seconded that the information brochure prepared by the Society must contain material on every member who stands for election as a Bencher.

*Carried*

(A) *Carried*

(B) That Convocation direct the Secretariat to outline for the consideration of Convocation new election procedures in the light of the approved recommendations of the Committee in this regard, guided as far as possible by present procedures provided by the Statute and the Rules.

(B) *Carried*

(C) The Committee is of the opinion that no special Professional Conduct ruling is required but the instructions to candidates should include the opinion of Convocation that no campaign material should be of an unprofessional nature, which, however, would not prohibit correspondence between members of the Society themselves and County and District Law Associations respecting candidates.

It was moved and seconded that this matter be referred to the Professional Conduct Committee.

*Lost*

(C) *Carried*

*Vice-Treasurer*

During the discussion in Convocation of the subject "Election of Treasurer", Convocation requested the Committee

to consider the question of a Vice-Treasurer. The Committee recommended that the office of Vice-Treasurer not be created at this time.

*Carried*

*Reports on Attendance of Benchers*

The Committee reconsidered its recommendation dealing with this matter contained in its original report and approved by Convocation. The Committee felt that a simpler and more direct way of dealing with this matter should be as follows and recommended accordingly:

If a Bencher fails to attend three consecutive meetings of a Standing Committee, the Chairman of the Committee or the Secretary shall request an explanation in writing from such Bencher. If the Treasurer is not satisfied with the explanation, he may remove such Bencher from the Standing Committee and appoint another Bencher in his or her place if necessary, and such removal and any new appointment shall be published in the Communiqué.

The removal of a Bencher from office if he or she fails to attend six consecutive regular Convocations is provided for by Section 23 of The Law Society Act.

*Carried*

**THE REPORT AS AMENDED WAS ADOPTED**

. . . . . .

## FINANCE COMMITTEE—Mr. Pallett

Mr. J.C. Pallett, Chairman, presented the Report of the Finance Committee of its meeting on Thursday, 9th June, 1977.

The following members were present: Messrs. Pallett (Chairman), Brulé, (Vice-Chairman), Farquharson, Fennell, Ground, Ogilvie and R.F. Wilson.

## ROLLS AND RECORDS

*Deaths*

The following members have died:

| | |
|---|---|
| Frederick Gerald Fitzgerald<br>Toronto | Called – 20 October 1927<br>Deceased – 17 January 1977 |
| Eugene Coleman Spereman, Q.C.<br>Owen Sound (Life Member) | Called – 18 September 1908<br>Deceased – 2 March 1970 |
| George Carstairs Richardes, Q.C.<br>Windsor | Called – 16 June 1927<br>Deceased – 17 May 1977 |
| Thomas D'Arcy Leonard, Q.C.<br>Toronto<br>(Life Member) | Called – 20 June 1918<br>Deceased – 25 May 1977 |
| George Warden Bull<br>Weston | Called – 18 September 1941<br>Deceased – 27 May 1977 |
| John Robert Dufton, Q.C.<br>St. Thomas | Called – 19 September 1958<br>Deceased – 2 June 1977 |
| Lloyd Christian Winhold, Q.C.<br>London | Called – 29 June 1949<br>Deceased – 28 May 1977 |

*Noted*

## MEMBERSHIP UNDER RULE 50 – RETIRED MEMBERS

*Kenneth Murney Langdon,* of Georgetown, who is sixty-five years of age or over and who is fully retired from the practice of law and other employment, requested permission to continue his membership in the Society at a reduced annual fee of $25.

*Approved*

## MEMBERSHIP UNDER RULE 50 – INCAPACITATED MEMBERS

*Simon Mackie Adams,* of Ottawa and Florida, requested consideration of his application under the new provision of Rule 50 which allows a disabled member to continue his membership in the Society at a reduced annual fee of $25. Mr. Adams' Statutory Declaration and a supporting medical report were before the Committee.

Mr. Adams was called to the Bar on 18th September 1941.

*Approved*

## LIBRARIES AND REPORTING COMMITTEE

### County Library Grants

*Annual Grants*

The Chief Librarian presented a memorandum listing those law associations which had sent in their Annual Returns for 1976 and setting out the amounts of the grants to which they appear to be entitled under the Regulation in 1976 and 1977. The Libraries and Reporting Committee approved these grants at its meeting on 9th June, 1977, subject to the approval of this Committee.

*Approved*

## ERRORS AND OMISSIONS INSURANCE

There are 279 members of the Society who have not complied with the requirements respecting the Errors and Omissions Insurance Plan. This number does not include members called to the Bar in March 1977.

Members in default were mailed reminders on May 10th, 1977 and, subject to the approval of this Committee, it was proposed to advise them on June 9th, 1977 that Convocation on June 17th, 1977 will have before it a recommendation that their rights and privileges as members of the Society be suspended under Section 36 of The Law Society Act.

*Approved*

## BARRISTERS' DINING ROOM

Mrs. Prince has requested that when the Barristers' Dining Room re-opens in September 1977 prices be increased with a view to reducing the amount which the Society must pay to Mrs. Prince to meet the guaranteed minimum.

*Approved*

## CHEQUE SIGNING

The Committee was asked to consider changes in those authorized to sign cheques as follows:

1. Discontinue the signing of cheques by Assistant Secretaries;
2. Add as cheque signers the Deputy Secretary and Finance Administrator.

The Finance Administrator is an additional signer and the intention is that he will in fact sign all cheques although the other names are left in the resolution so that cheques may be processed in his absence.

A new resolution encompassing these changes was before the Committee.

*Approved*

**THE REPORT WAS ADOPTED**

. . . . . .

**MOTION TO SUSPEND: ARREARS OF ERRORS AND OMISSIONS INSURANCE LEVY**

It was moved, seconded and *carried* that the rights and privileges of those members who failed to pay the levy prescribed under Section 53 of The Law Society Act within four months after the date on which payment was due, namely, 1st January, 1977, be suspended from 24th June, 1977, until their levies are paid or until applications for exemption from coverage are approved.

Of the 138 members whose names were before Convocation, 76 were suspended as of 24th June, 1977. Fifty-five met the requirements and were reinstated prior to publication of the notice to the profession in the Ontario Reports. Nine members were subsequently reinstated and the following twelve members are still suspended:

Michael James Clarke
Arthur Grant Evans
Simon Ritchie Fodden
Cornelius Allan Foran
Ernest Arthur Fox
Stanley Hardyal
Kathleen E. Morrison
Robert Paul Robert

Hugh Stennett Robertson
David Leslie Shaw
Robert Austin Stanley
David Richard Wardlaw

. . . . . .

## DISCIPLINE COMMITTEE–Mr. Lochead

### GENERAL

Mr. G.H. Lochead, Chairman, presented the Report of the Policy Section of the Discipline Committee of its meeting on Thursday, 9th June, 1977.

The following members were present: Messrs. Lochead (Chairman), Carnwath (Vice-Chairman), Cass, Furlong, Humphrey, Mrs. Sutherland and Mr. Willoughby.

### SUBSTITUTIONAL SERVICE

At the present time Section 33(13) of The Law Society Act provides that service of documents shall either be by personal service or by mailing a copy in a Registered letter addressed to the lawyer at his last known residence or office address as shown by the records of the Society. The Committee recommended that an amendment be sought to the Act to provide that where a document has been served by ordinary mail addressed to the solicitor at such address, it shall be deemed to have been served on the fourth business day following the date of mailing, even though it may later be returned by the Post Office so that the Society knows that the document has not come to the addressee's attention.

### ERRORS AND OMISSIONS – DEFAULT OF SOLICITORS IN PAYING THEIR DEDUCTIBLE

The Committee was of the view that the failure to pay the deductible may be professional misconduct and that instances coming to the Society's attention should be investigated and in appropriate circumstances Complaints should be laid. To remove doubt in this connection the Committee considered the provisions of Ruling 32 which reads as follows:

> "To maintain the honour of the Bar members have a professional duty (quite apart from any legal liability) to meet financial obligations incurred, assumed or undertaken on behalf of clients unless before incurring such obligations the lawyer concerned clearly indicates in writing that he, or she, is not prepared to meet the obligation personally."

and was of the opinion that it did not cover the failure of the lawyer to pay the deductible. The Committee was therefore of the opinion that a new Ruling should be adopted to cover such situations.

**UNCLAIMED TRUST FUNDS**

The Society from time to time receives requests for assistance from lawyers who are holding trust funds on behalf of clients whom the lawyers have unsuccessfully attempted to locate over a number of years. It was recommended that an amendment to the Regulation be sought to permit the Society to maintain an account into which these funds could be paid. It was further recommended that the interest on this account be paid to the Society to be applied against general administrative expenses.

It was moved in Convocation, seconded and *carried* that the matter of Unclaimed Trust Funds be referred to a special committee of Convocation appointed by the Treasurer, for consideration and report to Convocation.

**APPOINTMENT OF TRUSTEES**

Over the last several years the Society has been called upon on several occasions to appoint trustees under Section 43 of The Law Society Act to deal with situations where lawyers have disappeared leaving active practices. A Sub-Committee composed of a member of the Policy Section, a member of the Secretariat and one of the Society's auditors is being appointed to consider problems that arise under such appointments and to formulate guidelines to be used in future trusteeships.

**PROFESSIONAL CONDUCT EXAMINATION IN THE BAR ADMISSION COURSE**

It was recommended that the Bar Admission Course have a course and formal examination on professional conduct and solicitors' negligence which all students must pass in order to be called to the Bar.

**REPORT OF SUB-COMMITTEE ON DISCIPLINE PROCEDURES IN CONVOCATION**

At the May Convocation the Report of the Sub-Committee on Discipline Procedures in Convocation was considered. Item No. 5 which reads as follows:

> "ITEM No. 5 – The last matter considered by your Sub-Committee was the procedure to be adopted by Convocation as to any Order that might be made against the Solicitor in the event that the Discipline Committee's Decision was accepted by Convocation. Under the present procedure the Solicitor is informed of the motion or motions as to penalty and then accorded an opportunity to make submissions. If, during Convocation's subsequent deliberations as to penalty another motion of more serious consequences is made the Solicitor is required to re-attend and is so advised. He then may choose to make no further submissions, or he may make further submissions or he may request an adjournment. We are of the view that this procedure is at best cumbersome and contains some of the unfavourable features noted in Item No. 4 . . ."

was referred back to the Sub-Committee. A further Report of the Sub-Committee, the adoption of which this Committee recommended, is set out below:

> The Sub-Committee, Messrs. Cartwright (Chairman), Furlong, Humphrey and Kellock, met on Wednesday, June 8, 1977, to reconsider this matter.

After considerable discussion the Sub-Committee recommended that on a trial basis until December 31, 1977 Convocation adopt the following procedure. After adoption of the Discipline Committee's Decision Convocation will accord the Solicitor an opportunity to make submissions as to the penalty recommended by the Committee. If, while Convocation is deliberating this recommended penalty, any motion is made to impose a more serious penalty, the Solicitor shall be required to re-attend and shall be so informed and then be accorded an opportunity to make further submissions or to be granted an adjournment.

**THE REPORT AS AMENDED WAS ADOPTED**

. . . . . .

## LEGAL AID COMMITTEE–Mr. Bowlby

Convocation directed that the Report of the Legal Aid Committee of its meeting on Wednesday, 8th June, 1977 *stand.*

. . . . . .

## DISCIPLINE COMMITTEE (Continued)

### COMPENSATION FUND SUMMARY

Mr. Lochead presented the Summary of the Compensation Fund for the period ended 31st May, 1977.

**COMPENSATION FUND**

**For the Period 1st July, 1976 to 31st May, 1977**
**(11 months)**

| | |
|---|---|
| TOTAL RECEIPTS | $ 382,012.82 |
| TOTAL DISBURSEMENTS | $ 554,388.42 |
| EXCESS OF DISBURSEMENTS OVER RECEIPTS | $ (172,375.60) |
| BALANCE OF FUND at beginning of period | $1,486,468.30 |
| BALANCE OF FUND at end of period | $1,314,092.70 |

**RESUME OF GROSS CLAIMS OUTSTANDING**

| | |
|---|---|
| CLAIMS RECEIVED and in the course of being processed as of 31st May 1977 | $2,839,257.44 |
| TOTAL PAID to 31st May 1977 from the commencement of the Fund on account of 996 claims of 108 former solicitors | $4,039,073.59 |

**THE SUMMARY WAS RECEIVED**

. . . . . .

## PROFESSIONAL CONDUCT COMMITTEE–Mr. Cooper

Mr. B.H. Kellock, Vice-Chairman, presented the Report of the Professional Conduct Committee of its meeting on Thursday, 9th June, 1977.

The following members were present: Messrs. Kellock (Vice-Chairman, acting as Chairman), Bowlby, Carnwath, Lochead, Strauss and Mrs. Sutherland.

### REPORT OF THE SUB-COMMITTEE CONCERNING SOLICITORS ACTING AS MORTGAGE BROKERS

As a result of an enquiry from a member of the profession this Sub-Committee was appointed at the March 1977 meeting of the Committee. The Sub-Committee's Report, adoption of which is recommended by this Commitee, was before Convocation.

Convocation directed that this item *stand.*

### MARTINDALE-HUBBELL

From time to time the publishers, Martindale-Hubbell, have circulated to members of the Judiciary and legal profession in Ontario a list of Ontario lawyers asking that the recipients of the list rate the legal ability of those who are set out on the list. The Committee had before it a letter from the President of the Criminal Lawyers' Association asking whether it could be considered unethical for such ratings to be given by members of

the profession. The Committee was of the view that whether a member of the profession responds to the Martindale-Hubbell request is a matter of individual preference and that it would not be considered objectionable if someone chose so to do.

**RULING 32 – ERRORS AND OMISSIONS**

This Ruling of Professional Conduct deals with the duty of a lawyer to meet financial obligations. Instances have come to the Society's attention where although a settlement has been worked out in an Errors and Omissions matter the lawyer concerned has failed to pay the deductible even though he has acknowledged that he is obliged so to do. Presently Ruling 32 reads as follows:

> "To maintain the honour of the Bar members have a professional duty (quite apart from any legal liability) to meet financial obligations incurred, assumed or undertaken on behalf of clients unless before incurring such obligations the lawyer concerned clearly indicates in writing that he, or she, is not prepared to meet the obligation personally."

The Committee was of the view that this Ruling does not cover the failure to pay the deductible and therefore recommended that the following paragraph be added:

> "Generally, members have a professional duty to meet financial obligations in relation to their practice, including prompt payment of the deductible under the Society's Errors and Omissions Insurance Plan when properly called upon to do so."

**THE BALANCE OF THE REPORT WAS ADOPTED**

. . . . . .

## LIBRARIES AND REPORTING COMMITTEE–Mr. Seagram

Mr. C.J. Seagram, Chairman, presented the Report of the Libraries and Reporting Committee of its meeting on Thursday, 9th June, 1977.

The following members were present: Messrs. Seagram (Chairman), Farquharson, Salhany, Wallace and Willoughby, and Miss A.R. McCormick.

## GREAT LIBRARY

### GIFTS AND DONATIONS

The following donations to the Great Library have been received:

| | |
|---|---|
| Tory, Tory, DesLauriers & Binnington, Barristers & Solicitors, Toronto | A run of 52 volumes of the Commonwealth Law Reports, volumes 74-126, 1946/47 – 1971/72 |
| R.E. Priddle, Senior Counsel, Legal and Survey Standards Branch, Ministry of Consumer & Commercial Relations, Toronto | A number of unbound parts of the Ontario Reports for the years 1974-1976 |

*Noted*

### PRIVATE LAW LIBRARIES CONFERENCE

The Committee recommended that the request of the Chief Librarian for permission to attend the Practising Law Institute, New York City Conference on Private Law Libraries on July 28 – July 29, 1977 with expenses be approved.

## COUNTY LAW LIBRARIES

### DISTRICT OF MANITOULIN – LAW LIBRARY

The Secretary reported that the request of a lawyer in the District of Manitoulin, for $10,550.00 for basic reports and texts and $770.00 for annual upkeep of reports and texts should not be approved. The Committee concluded that the lawyer making the request is the only resident lawyer in the District who would use the library at the Court House, Gore Bay.

**ANNUAL GRANTS**

The Associations listed below have sent in their Annual Returns for the year 1976. The amounts of the grants to which they are entitled under the Regulation in 1976 and 1977 are as follows:

| | | | *1976* | *1977* |
|---|---|---|---|---|
| Algoma | | | $2,000.00 | $2,000.00 |
| Frontenac | | | 2,000.00 | 2,000.00 |
| Grey | | | 1,816.67 | 2,000.00 |
| Hastings | | | 2,000.00 | 2,000.00 |
| Huron | | | 1,075.00 | 1,110.00 |
| Leeds & Grenville | | | 1,180.00 | 1,320.00 |
| Lennox & Addington | | $750.00 | | |
| | – 10% | 75.00 | 675.00 | 795.00 |
| Muskoka | | | 1,150.00 | 1,285.00 |
| Norfolk | | | 1,181.67 | 1,685.00 |
| Parry Sound | | | 750.00 | 750.00 |
| Prescott & Russell | | | 750.00 | 760.00 |
| Stormont, Dundas & Glengarry | | | 1,145.00 | 1,425.00 |
| Temiskaming | | | 750.00 | 750.00 |
| Thunder Bay | | | 2,000.00 | 2,000.00 |

*Approved* subject to the approval of the Finance Committee.

**MIDDLESEX LAW ASSOCIATION**

The Secretary reported that he had received a letter from Samuel Lerner, Q.C., President of the Middlesex Law Association, stating that his association would like to purchase books directly from book publishers and not through the Central Administrative Programme. The Committee recommended that the Central Administrative Programme be continued and that the Secretary write a letter to Mr. Lerner and advise him of this.

**PAYMENT OF COUNTY LAW ASSOCIATION FEES**

The Secretary reported that he had received a letter from a solicitor who requested a ruling from the Committee on his right to use the law association law library without paying the $30.00 annual fee. The Secretary was instructed to refer the solicitor's letter to the president of the law association involved.

**THE REPORT WAS ADOPTED**

. . . . . .

**UNAUTHORIZED PRACTICE COMMITTEE–Mr. White**

Mr. P.B. Tobias, Vice-Chairman, presented the Report of the Unauthorized Practice Committee of its meeting on Thursday, 9th June, 1977.

The following members were present: Messrs. Tobias (Vice-Chairman), Fennell, Furlong, Seagram and Strauss.

The Secretary reported that he had received a letter from M.E. Martin, Q.C., Crown Attorney for the County of Middlesex concerning a Notary Public. The Crown Attorney advised that this notary had charged $200.00 for fees for searching a title and preparing some conveyances and had also retained the deposit of $100.00 which the complainants were attempting to obtain. The transaction failed to close and the notary refused to refund the $100.00 deposit. The Secretary was instructed to write to the Deputy Attorney General and send a copy of Mr. Martin's letter indicating that this Notary Public appeared to be carrying on business in contravention of Section 50 of The Law Society Act. The Secretary was also instructed to retain counsel in London to investigate this case by interviewing the complainants to see if there is sufficient evidence of a breach of Section 50 of The Law Society Act to commence a prosecution.

The Secretary reported that he had received a complaint about a conveyancer who had been acting on a real estate transaction. The Secretary was instructed to send the solicitor who complained about the conveyancer a memorandum of

cases decided under Section 50 of The Law Society Act and to indicate that since there was no legal advice in the letter submitted, there appeared to be no breach of Section 50 of The Law Society Act and if the solicitor had any further evidence of a breach of Section 50, he should forward it to the Secretary.

The Secretary reported that he had received a letter from a solicitor complaining about an advertisement which appeared in a newspaper offering services of a divorce kit agency and an incorporation of companies agency. The Secretary was instructed to write to the solicitor and indicate that the agency is under investigation. The Secretary was also instructed to inquire as to the investigator to be hired by the Law Society.

The Secretary reported that he had received a letter from a solicitor complaining about "Campus Legal Assistance Centre" at the University of Toronto which was sponsored by the Student's Legal Aid Society. The Committee considered a letter from the Assistant Director of the Ontario Legal Aid Plan, which had been written to the solicitor explaining the involvement of Campus Legal Assistance Centre in the case. The Secretary was instructed to refer this matter to the Legal Aid Committee and ask whether the person assisted by Campus Legal Assistance Centre could afford to pay legal fees or in the alternative could have applied for and obtained a Legal Aid Certificate. The Secretary was also instructed to ask the Assistant Director of the Ontario Legal Aid Plan what type of work university law students working for Campus Legal Assistance Centre are permitted to do.

The Secretary reported that he had received a letter from a solicitor asking whether a credit bureau can complete a Claim for Lien and Affidavit of Verification and register it on behalf of one of the credit bureau customers and secondly, could a credit bureau complete a Claim for Lien and Affidavit of Verification and then send it to a solicitor for his inspection and approval prior to the registration of the said documents. The Secretary was instructed to write to the solicitor and advise him that work under the Mechanics Lien Act is complicated and requires a lawyer and secondly, that no lawyer should act as an agent to approve documents drafted by a credit bureau prior to registration.

The Secretary reported that he had received a letter from a solicitor enclosing a letter of requisitions from a conveyancer. The Secretary was instructed to send a brief of cases to the solicitor and ask if he has any further evidence of unauthorized practice under Section 50 of The Law Society Act.

**THE REPORT WAS RECEIVED**

. . . . . .

## PUBLIC RELATIONS COMMITTEE–Mr. Wallace

Mr. G.E. Wallace, Chairman, presented the Report of the Public Relations Committee of its meeting on Thursday, 9th June, 1977.

The following members were present: Mr. Wallace (Chairman), Messrs. Tobias and Lochead.

### PAMPHLETS

Convocation has approved of three pamphlets on aspects of lawyers' services being prepared for distribution to the public through lawyers' offices. It was intended that draft pamphlets would be before Convocation this month so that Convocation could approve both the design and content.

The Committee recommended that four pamphlets be distributed on the subjects of buying a house, a car accident, a business partnership, and the wisdom of having a will. A photostatic copy of the design of the pamphlet on buying a house together with a draft of the wording was before Convocation. A final draft of the wording is still in preparation as are the final drafts of the contents of the other three pamphlets. The designs for the other three pamphlets are still in preparation.

The Committee recommended that 10,000 copies of each pamphlet be printed at a cost of about $4,000 (which is within the Committee's budget) to be supplied in limited quantities to

law offices for their waiting rooms, legal aid offices and selected other places such as banks, credit unions and trust companies.

The Committee asked Convocation's guidance whether to proceed with the printing and distributing of these pamphlets forthwith or whether Convocation would prefer to see them in their final form before they are printed.

Convocation directed:

The printing is to proceed with the approval of the wording by the Treasurer and the Chairman of the Committee.

Both The Law Society of Upper Canada and the Canadian Bar Association logos are to appear on the pamphlets.

**THE REPORT WAS ADOPTED**

. . . . . .

**SPECIAL COMMITTEE ON MUNIMENTS AND MEMORABILIA**

Mrs. L.L. Legge presented the Report of the Special Committee on Muniments and Memorabilia of its meeting on Thursday, 9th June, 1977.

The following members were present: Mr. Pepper (Acting Chairman), Mrs. L. Legge and Mr. Honsberger (Curator).

**GUIDE TO DISPLAY**

Last year Convocation accepted the Committee's recommendation that 1,000 copies of a guide to the pictures and paintings on display in the Muniments and Memorabilia Room be printed. To date the guide has not been printed because of a number of changes in and additions to the Room, which have been due in part to the renovations in the building. The printer has given a new estimate of $758.

The Committee recommended that 1,000 guides be printed and that the guide include a list of those portraits in the possession of the Law Society on the understanding that the cost will not exceed $850.

**EXHIBITION OF THE LAW SOCIETY'S PORTRAIT COLLECTION**

The Committee recommended that Mr. Honsberger, the Curator, approach the Art Gallery of Ontario or one of the chartered banks to find out if there would be any interest in having an exhibition of a selection of portraits in the Law Society's possession.

**PRESENTATIONS**

Miss Beatrice E. Shepley and Miss Helena V. Shepley presented the Prince of Wales Gold Medal won by their father, the late George Shepley, K.C., in 1872 while he was a student at Victoria College together with newspaper clippings concerning his funeral in 1916.

Mr. Allan Leal, Q.C., the Deputy Attorney General, presented a photograph of Mr. Park Jamieson.

The United Church of Canada presented the photographs of three undergraduate students at Victoria College who went on to become lawyers: Mr. H. McFadden; Mr. Charles Holman; and Mr. George Watson. The photographs were taken in 1872.

Mr. William Holland of Ottawa presented a set of colour slides taken during Her Majesty's visit to Osgoode Hall in June of 1973.

Mrs. Reginae M. Tait presented a series of photographs of Her Majesty the Queen and other members of the Royal Family.

**THE REPORT WAS ADOPTED**

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**CONVOCATION ROSE AT 5:10 P.M.**

. . . . . .

Read in Convocation and confirmed 16th September, 1977.

W. GIBSON GRAY

Treasurer

THE LAW SOCIETY OF UPPER CANADA

# Minutes of Convocation

Volume 2 Number 6

Members wishing to receive the Minutes of Convocation are asked to complete the form below and send it to the Society.

---

The Secretary,
The Law Society of Upper Canada,
Osgoode Hall,
Toronto, Ontario
M5H 2N6

I would like to receive the Minutes of Convocation at the address below:

Name .....

Address .....

.....

.....

# MINUTES OF CONVOCATION
## (ABRIDGED)

Friday, 16th September, 1977
10:00 a.m.

**PRESENT:**

The Treasurer (Mr. W. Gibson Gray) and Messrs. Bowlby, Brulé, Bynoe, Carnwath, Carrier, Carthy, Cass, Chadwick, Chappell, Farquharson, Fennell, Finlayson, Furlong, Goodman, R.J.S. Gray, Ground, Humphrey, Kellock, Mrs. Legge, Messrs. Levinter, Linden, Lochead, O'Brien, Ogilvie, Pomerant (after his election), Salhany, Sheard, Strauss, Mesdames Sutherland and Tait, Messrs. Thom, Tobias, White, Willoughby and Zahoruk.

. . . . . .

**MINUTES**

The Minutes of Convocation of 17th June, 1977 were read and confirmed.

. . . . . .

**ELECTION OF BENCHER**

A vacancy was caused in Convocation by Robert S. Montgomery assuming judicial office as a Judge of the High Court of Justice of The Supreme Court of Ontario on 6th September, 1977. Convocation proceeded to elect a qualified candidate in accordance with the provisions of Section 22(2) of The Law Society Act.

It was moved, seconded and *carried* that Mr. *Joseph B. Pomerant* of Toronto be elected a Bencher to fill the vacancy in Convocation.

Mr. Pomerant entered Convocation and was welcomed to the Bench by the Treasurer.

. . . . . .

## APPOINTMENTS TO STANDING COMMITTEES

It was moved, seconded and *carried* that Mr. *R. E. Salhany* be appointed a member of the Legal Education Committee.

It was moved, seconded and *carried* that Mr. *Arthur C. Whealy* of Toronto be appointed a member of the Legal Aid Committee.

## APPOINTMENT OF SPECIAL ADVISORY COMMITTEE TO THE ATTORNEY GENERAL FOR ONTARIO

The Treasurer announced that at the request of The Honourable Roy McMurtry, Attorney General for Ontario, he had named three members to join a Special Advisory Committee to the Attorney General to make recommendations respecting the use of the French language in the Courts of Ontario. Appointed were Messrs. Pierre Genest, William Graham and David Humphrey. Other appointments are to be made by the Attorney General and by the Bâtonnier of the Quebec Bar.

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## REPORT OF SPECIAL COMMITTEE ON WHITE PAPER ON COURTS ADMINISTRATION

Mr. G.D. Finlayson reported orally on the information the Special Committee had been able to obtain.

It was moved, seconded and *carried* that Convocation respectfully submit to the Attorney General that the draft Act be amended so as to provide:

As to Section 4(1) that the Judicial Council shall consist also of a Bencher of the Law Society to be appointed in Convocation assembled;

As to Section 11(1) that the Advisory Committee shall consist also of three members of the profession to be appointed respectively by:

The Directors of The Advocates' Society;
The Trustees of the County of York Law Association;
The Governing Body of the Canadian Bar Association (Ontario Branch);

and that the reference to the Treasurer of The Law Society of Upper Canada in Section 11(1) be deleted.

. . . . . .

**APPOINTMENT OF SPECIAL COMMITTEE ON UNCLAIMED TRUST ACCOUNTS**

The Treasurer announced that pursuant to the authority given him by Convocation on 17th June, 1977, he had appointed Messrs. *Carnwath* and *Chadwick,* Mrs. *Legge,* and Messrs. *Rogers* and *Seagram* a Special Committee on Unclaimed Trust Accounts.

. . . . . .

**CRIMINAL CODE – PROPOSED AMENDMENTS RE AUTHORITY TO INTERCEPT PRIVATE COMMUNICATIONS**

At the May Convocation the Treasurer was empowered to obtain all relevant information about proposed amendments to the Criminal Code respecting authority to intercept private communications. At the June Convocation, because of insufficient time, the matter was stood over.

Mr. Chappell reported orally with respect to the proposed amendments and that a Committee of The Advocates' Society, four of whom were Benchers, made representations to the Federal Justice and Legal Affairs Committee urging changes in the proposed amendments and that many of their recommendations were adopted in part.

. . . . . .

## LEGAL AID COMMITTEE–Mr. Bowlby

Mr. J.D. Bowlby, Chairman, presented the Report of the Legal Aid Committee of its meetings on Wednesday, 8th June, 1977; Wednesday, 13th July, 1977; and Wednesday, 7th September, 1977.

On Wednesday, 8th June, the following were present: John D. Bowlby, Chairman, and Messrs. Barnes,

Carnwath, Ellis, Ferrier, Gilchrist, Hamer, Harris, Jones, Lamb, Lewis, Linden, Montgomery, Ogilvie, Shaffer, Mrs. Smyth, Mr. Wallace.

A. C. Whealy, Solicitor, Toronto, was also in attendance as an observer from the Criminal Lawyers Association.

Also in attendance by special invitation was Mrs. Gretta Grant, Q.C., Area Director, Middlesex, Oxford and Perth Counties.

On Wednesday, 13th July, the following were present: John D. Bowlby, Chairman, and Messrs. Barnes, Carnwath, Chadwick, Ferrier, Finlayson, Mrs. Fleming, Messrs. Gilchrist, Goodman, Harris, Mrs. Jarmain, Messrs. Lamb, Lewis, Montgomery, Ogilvie, Russell and Wallace.

Also in attendance, by special invitation, were Mrs. Gretta Grant, Q.C., Area Director, Middlesex, Oxford and Perth Counties; D.G. Cunningham, Q.C., Area Director, Frontenac County; W. C. Grant, Area Director, Peterborough County; G. H. Marsden, Q.C., Area Director, Peel County; and R. F. Wyrzykowski, Area Director, Lambton County.

On Wednesday, 7th September, the following were present: John D. Bowlby, Chairman, and Messrs. Barnes, Carnwath, Chadwick, Ellis, Ferrier, Mrs. Fleming, Mr. Harris, Mrs. Jarmain, Messrs. Jones, Lamb, Levinter, McLean, Ogilvie, Russell, Shaffer, Wallace.

Also in attendance, by special invitation, Thomas Hamer, ex-student representative.

## REPORT OF THE DEPUTY DIRECTOR

### *Finance*

The Director's report, pursuant to Section 95(2), for the four month period ended July 31, 1977, shows that payments from the Legal Aid Fund were less than budget by $169,000. Of this total $114,000 represents under expenditure of designated Community Clinic funds. The remaining $55,000 is accounted for as follows:

| *Under budget* | $ | $ |
|---|---|---|
| Duty Counsel payments | 124,000 | |
| Northern Ontario pilot project | 41,000 | |
| Area Office costs | 27,000 | |
| Provincial Office costs | 53,000 | 245,000 |
| *Over budget* | | |
| Criminal certificate accounts | 60,000 | |
| Civil certificate accounts | 117,000 | |
| Legal Advice certificate accounts | 8,000 | |
| Salaried Duty Counsel project | 5,000 | 190,000 |
| | | 55,000 |

Contributions received from clients are running in excess of budget by $25,000, as are recoveries in civil actions by $18,000.

Miscellaneous income, primarily consisting of interest on bank deposits, is $10,000 less than anticipated.

As at July 31, 1977, the balance in the Fund stood at $564,000.

*Statistics*

The following table compares reported activity for the first four months of this fiscal year with the activity for the same period in the previous fiscal year:

| | *4 months ended* | | *% Change* |
|---|---|---|---|
| | *July 31, 1977* | *July 31, 1976* | *from last year* |
| Informal applications | 30,468 | 31,523 | – 3.3 |
| Applications for certificates | 34,314 | 33,676 | + 1.9 |
| Refusals | 11,362 | 11,000 | + 3.3 |
| Certificates issued | 25,492 | 26,002 | – 1.9 |
| Persons assisted by Duty Counsel: | | | |
| Fee for service | 40,697 | 51,479 | |
| Salaried Duty Counsel | 7,141 | – | |
| TOTAL | 47,838 | 51,470 | – 7.0 |

*Write-Offs*

George E. Wallace, Vice-Chairman, has approved the

write-offs of the following total of amounts due to the Legal Aid Fund: $96,905.45.

## AUDITED REPORT OF THE FISCAL YEAR ENDED MARCH 31ST, 1977

The Provincial Auditor has completed his examination of the accounts of the Legal Aid Fund for the year ended March 31st, 1977.

A copy of the audited financial statements and auditor's report thereon were presented to the Committee for their information.

A copy of the statements and report were before Convocation.

## REPORT OF THE LEGAL ACCOUNTS OFFICER

*Activity*

| | 1977/78 Fiscal Year | | 1976/77 Fiscal Year | |
|---|---|---|---|---|
| | *Month of Aug. 1977* | *5 Months to Aug. 1977* | *Month of Aug. 1976* | *5 Months to Aug. 1976* |
| Accounts on hand at beginning | 6428 | 4657 | 5117 | 5087 |
| Accounts received | 4757 | 25339 | 4627 | 26452 |
| Total Accounts to be processed | 11185 | 29996 | 9744 | 31539 |
| Less: Files cancelled | 39 | 209 | 28 | 172 |
| Accounts processed | 5148 | 23789 | 5167 | 26818 |
| Balance | 5998 | 5998 | 4549 | 4549 |

The above figures do not reflect accounts for Interim Disbursements and Supplementary Payments.

*Reviews*

| | *June, July August, 1977* | *5 Months to August 31/77* | *5 Months to August 31/76* |
|---|---|---|---|
| Reviews on hand | 321 | | |
| Reviews received | 255 | 513 | 598 |
| | 576 | | |

| | *June, July, August, 1977* | *5 Months to August 31/77* | *5 Months to August 31/76* |
|---|---|---|---|
| Settlements reviewed | 115 | 290 | 574 |
| Settlements awaiting review | 448 | | |
| Settlements awaiting further information | 13 | | |
| | 576 | | |

*Appeals*

| | *June* | *July* | *August* |
|---|---|---|---|
| Appeals to Taxing Master received during | 2 | 1 | – |
| Appeals heard by Taxing Master | – | – | – |
| Appeals pending at the end of the month | 9 | 10 | 7 |
| Appeals abandoned | 2 | – | 1 |

**AREA DIRECTORS' RETAINERS**

The Chairman reported orally on this matter.

**REGIONALIZATION AND TRAINING OF PARALEGALS**

One of the criticisms that has been made of Legal Aid through the Osler Report is that it is "not evenhanded enough" due to the varying discretion of the 46 Area Directors causing the method of delivery to be fragmented.

A working paper on regionalization was presented to the Legal Aid Committee at its meeting on June 8th, 1977, and also distributed to the Area Directors for their comments. The Area Directors were asked to respond in writing, setting out their views, by the end of August. Group meetings of the Area Directors have also been held. A full meeting of the 46 Area Directors and their three deputies might not reflect the real concerns of the Plan's administrators. It has been emphasized that the working paper is in no way a criticism of the Area Directors. The Plan has functioned well due to the work and support of the Area Directors in the province.

At the meeting of the Committee on July 6th, 1977, five Area Directors were invited to attend. The Area Directors selected had expressed definite opinions on the proposals as set out in the working paper. The five Area Directors were, Mrs. Gretta Grant, Q.C., Area Director, Middlesex, Oxford and Perth Counties; D. G. Cunningham, Q.C., Area Director, Frontenac County; W. C. Grant, Solicitor, Area Director, Peterborough County; G. H. Marsden, Q.C., Area Director, Peel County; and R. F. Wyrzykowski, Solicitor, Area Director, Lambton County.

The Area Directors reviewed in depth with the Committee the various recommendations. As a result of the July meeting a Sub-Committee was appointed to assist the administrative staff in preparing a report which will be ultimately considered by Convocation.

The Sub-Committee consists of the following: W. Reid Donkin, Chairman; and Messrs. Harvey S. Savage, D. J. McCourt, E. A. Goodman, L. K. Ferrier, J. D. Carnwath, Noel Ogilvie, and D. W. Jones.

A brief report was submitted to the Committee at the September meeting setting out the recommendations and suggestions made by the above noted sub-committee. Further reports will be considered by the Legal Aid Committee before a complete report is given to Convocation and discussions are held with the Attorney General.

**GROUP REPRESENTATION UNDER LEGAL AID**

Over the past several months applications have been received for the granting of Legal Aid in fields which may generally be defined as those cases which are class actions, or group actions, or test cases.

The Osler Task Force Report recommended that certificates for Legal Aid should be available for group representation.

Your Committee in June recommended that a Sub-Committee under the chairmanship of Professor Allan Linden be appointed to look into the granting of Legal Aid in such cases.

At the present time the only legislation which actually affects these actions is Section 39 of the Legal Aid Regulation, which indicates that Legal Aid must be refused if the relief sought can bring no benefit to the applicant over and above the benefit that would accrue to him as a member of the public. The section also says that an Area Director may refuse a certificate if the applicant is one of a number of persons having the same interests under such circumstances that one or more may sue or defend on behalf of or for the benefit of all.

The Legal Aid Committee approved the suggestion that one or more members of the York County Area Committee be designated to sit with the Sub-Committee since it appears that most of such applications arise in Toronto.

**PUBLIC RELATIONS**

At its June meeting the Committee was informed that $150,000 had been approved by the Government in the 1977/78 budget for the creation of a Public Relations Department. The Committee recommended that a sub-committee be appointed to consider the needs and make recommendations with respect to this matter. The following members were appointed to the sub-committee: A. M. Linden, Chairman; Messrs. D. G. Humphrey, J. D. Carnwath, G. E. Wallace, R. L. Lamb, Peter Russell, and Mrs. Ruth Jarmain.

The Committee reviewed and approved the report of the Sub-Committee which included the recommendation that a full-time Public Information Officer be appointed and the further recommendation that a management consulting firm be retained, if necessary, to assist in obtaining candidates.

**SPECIAL STANDING COMMITTEE ON LEGAL ACCOUNTS**

In April concern was expressed by some members of the Legal Aid Committee that the Committee was not sufficiently informed with respect to processing of solicitors' accounts. A Sub-Committee was appointed consisting of the following: R. S. Montgomery, Chairman; Messrs. A. C. Whealy, G. E. Wallace, D. W. Jones, Mrs. A.C.R. Rosenthal, Messrs. R. J. Carter, L. K. Ferrier, Sidney Linden, Michael Kovach, James Austin, and Ralph Back.

The Sub-Committee will be informed of any problems with respect to the taxation of accounts and be able to consider and make decisions on amendments to the Act and tariff, and also develop policy in this area.

The Committee had before it at the September meeting a report from the Special Standing Committee on Legal Accounts, wherein various means to amend the existing criminal tariff were set out.

The Sub-Committee has now been divided into two sections to deal with the criminal and civil tariffs:

Civil – Wallace, Kovach, Ferrier, Back
Criminal – Linden, Austin, Whealy, Back, Kovach

It was recommended that Mr. Whealy be appointed Chairman of the said Sub-Committee to replace Mr. Montgomery who has been appointed a judge of the High Court of Justice for Ontario.

It is apparent that substantial and detailed work is required by the Sub-Committee before any firm proposal can be presented to Convocation.

**CLINICAL FUNDING COMMITTEE**

On September 7th, 1977, the Clinical Funding Committee met to recommend to the Director, and subject to the approval of Convocation, funding to four independent community service groups for the fiscal year 1977/78.

The Director recommended to Convocation that the report of the Clinical Funding Committee dated September 8th, 1977, be adopted and that the following receive grants as indicated: Halton Hills Legal Clinic ($17,842); Problem Central ($54,000); Black Resources and Information Centre ($6,000); Bloor-Bathurst Information Centre ($7,000); and Riverdale Socio-Legal Services ($5,670).

**LEGAL AID COMMITTEE APPOINTMENTS**

Robert S. Montgomery, Q.C., a member of the Committee was appointed a judge of the High Court of Justice for Ontario in September. It is recommended that Arthur C. Whealy, Q.C., President of the Criminal Lawyers Association and observer member, be appointed as a member of the Legal Aid

Committee.

Thomas Hamer, the student representative, Western University, resigned in August. The Executive of the Student Legal Aid Societies of Ontario have unanimously recommended the appointment of Reginald McLean, Faculty of Law, Queen's University, to replace Mr. Hamer as a student representative on the Legal Aid Committee.

**AREA COMMITTEES**

Section 4(1) of The Legal Aid Act provides that the Law Society may appoint a Legal Aid Committee for an area.

The Committee recommended that the following be appointed members of the Area Committees in:

**Peel County**

John David Scott, Assistant Crown Attorney, Brampton.

**Simcoe County**

Barry Dunn, Local Registrar of the Supreme Court, Barrie.
William Leslie, Solicitor, Barrie.

**RESIGNATIONS**

**Wellington County**

J. Cecil Wolfe, Solicitor, Fergus.
D. Michael Bean, Solicitor, Guelph.

**THE REPORT WAS ADOPTED**

. . . . . .

## ADMISSIONS COMMITTEE—Mr. Pepper

Mrs. L. L. Legge, Vice-Chairman, presented that portion of the Report of the Admissions Committee of its meeting on Thursday, 8th September, 1977, with respect to a candidate for Call to the Bar as follows:

## CALL TO THE BAR AND CERTIFICATE OF FITNESS

### Bar Admission Course

The following candidate having successfully completed the Eighteenth Bar Admission Course, filed the necessary documents and paid the required fee of $210.00 applied for Call to the Bar and to be granted a Certificate of Fitness:

Maryka Joyce Omatsu

*Approved*

**THAT PORTION OF THE REPORT WAS ADOPTED**

. . . . . .

## CALL TO THE BAR

The following candidate was presented to the Treasurer and Convocation and was called to the Bar, and the degree of Barrister-at-Law was conferred upon her by the Treasurer:

Maryka Joyce Omatsu – 18th Bar Admission Course

. . . . . .

**MOTION:**
**LEGAL AID TARIFF**

It was moved, seconded and *carried* that the Legal Aid Tariff be increased, that the matter be referred to the Legal Aid Tariff Sub-Committee to produce a new Tariff and that the necessary amendments to the Regulation be sought.

. . . . . .

## DISCIPLINE COMMITTEE–Mr. Lochead

**Re: MICHAEL THOMAS WADSWORTH, Toronto**

Mr. J. D. Carnwath, Vice-Chairman, placed the matter before Convocation.

The reporter was sworn.

Mr. H. J. Ash attended on behalf of the solicitor. Mr. S. E. Traviss represented the Society.

Mr. Ash asked for an adjournment because the solicitor's counsel, Mr. John J. P. McDermott, Q.C., must retire for medical reasons and the solicitor must have more time to prepare.

Mr. Ash, Mr. Traviss and the reporter retired.

It was moved and seconded that the matter be adjourned to a Convocation in October 1977.

It was moved, seconded and *carried* that the matter be adjourned to a Special Convocation to be held on 23rd September, 1977.

The first motion was withdrawn.

Mr. Ash, Mr. Traviss and the reporter returned and were advised of the motion that was carried.

NOTE: The solicitor is Michael Thomas Wadsworth of Don Mills, not Michael A. Wadsworth, the Toronto lawyer who is well known in football and broadcasting.

. . . . . .

**Re: DAVID ROBERT KING ROSE, Toronto**

Mr. Carnwath placed the matter before Convocation and advised that on consent of all parties it was to be adjourned to a Special Convocation to be held on 23rd September, 1977.

It was moved, seconded and *carried* that the matter be adjourned to a Special Convocation to be held on 23rd September, 1977.

. . . . . .

**Re: RONALD SAMUEL WUNDER, Toronto**

Mr. Carnwath placed the matter before Convocation and advised that on consent of all parties it was to be adjourned to a Special Convocation to be held on 23rd September, 1977.

It was moved, seconded and *carried* that the matter be adjourned to a Special Convocation to be held on 23rd September, 1977.

. . . . . .

## COMPENSATION FUND SUMMARIES

Mr. J. D. Carnwath, Vice-Chairman, presented the Compensation Fund Summary for the period ended 30th June, 1977.

### COMPENSATION FUND

**For the Period 1st July, 1976 to 30th June, 1977**

**(12 months)**

| | |
|---|---|
| TOTAL RECEIPTS | $ 389,892.70 |
| TOTAL DISBURSEMENTS | $ 555,810.70 |
| EXCESS OF DISBURSEMENTS OVER RECEIPTS | $ (165,918.00) |
| BALANCE OF FUND at beginning of period | $1,486,468.30 |
| BALANCE OF FUND at end of period | $1,320,550.30 |

### RESUME OF GROSS CLAIMS OUTSTANDING

| | |
|---|---|
| CLAIMS RECEIVED and in the course of being processed as of 30th June 1977 | $2,651,696.82 |
| TOTAL PAID to 30th June 1977 from the commencement of the Fund on account of 996 claims of 108 former solicitors | $4,039,073.59 |

**THE SUMMARY WAS RECEIVED**

. . . . . .

Mr. Carnwath presented the Compensation Fund Summary for the period ended 31st August, 1977.

## COMPENSATION FUND

**For the period 1st July, 1977 to 31st August, 1977**

**(2 months)**

| | | |
|---|---|---|
| TOTAL RECEIPTS | | $ (8,615.37) |
| TOTAL DISBURSEMENTS | | $ 275.00 |
| EXCESS OF DISBURSEMENTS OVER RECEIPTS | | $ (8,890.37) |
| BALANCE OF FUND at beginning of period: | | |
| As of 30th June 1977 | $1,320,550.30 | |
| Increase in Allowance for market value on Investments | 24,562.50 | |
| Interest accrued on Investments at 30th June 1977 | 15,561.99 | $1,360,674.79 |
| BALANCE OF FUND at end of period | | $1,351,784.42 |

## RESUME OF GROSS CLAIMS OUTSTANDING

| | |
|---|---|
| CLAIMS RECEIVED and in the course of being processed as of 31st August 1977 | $2,713,008.81 |
| TOTAL PAID to 31st August 1977 from the commencement of the Fund on account of 996 claims of 108 former solicitors | $4,039,073.59 |

## THE SUMMARY WAS RECEIVED

. . . . . .

## GENERAL

Mr. J. D. Carnwath, Vice-Chairman, presented the General Report of the Policy Section of the Discipline Committee of its meeting on Thursday, 8th September, 1977.

The following members were present: Messrs. Carnwath (Vice-Chairman acting as Chairman), Carrier, Cartwright, Cass, Cooper, Furlong, Mrs. Sutherland and Mr. Zahoruk.

### COMPENSATION FUND LEVY

The Committee recommended that the levy for the ensuing year be set at $50. This is a $20 increase over the 1976-77

levy.

It was moved, seconded and *lost* that the Compensation Fund levy for members of the Society for the fiscal year 1977-78 be $50 per member.

It was moved, seconded and *lost* that the matter stand until the annual fees are discussed.

It was moved, seconded and *carried* that the Compensation Fund levy for members of the Society for the fiscal year 1977-78 be $30 per member.

. . . . . .

**CONVOCATION ADJOURNED FOR LUNCHEON AT 12:45 P.M.**

. . . . . .

**CONVOCATION RESUMED AT 2:10 P.M.**

. . . . . .

**PRESENT**:

The Treasurer and Messrs. Bowlby, Brulé, Bynoe, Carnwath, Carrier, Carthy, Cass, Chadwick, Farquharson, Fennell, Finlayson, Furlong, R. J. S. Gray, Ground, Humphrey, Mrs. Legge, Messrs. Lochead, O'Brien, Ogilvie, Mesdames Sutherland and Tait, Messrs. Thom, Tobias, White and Willoughby.

. . . . . .

## DISCIPLINE COMMITTEE (Continued)

### GENERAL

Convocation continued its consideration of the Report of the Policy Section of the Discipline Committee.

**THE REPORT AS AMENDED WAS ADOPTED**

. . . . . .

## FINANCE COMMITTEE–Mr. Pallett

Mr. J. A. Brulé, Vice-Chairman, presented the Report of the Finance Committee of its meeting on Thursday, 8th September, 1977.

The following members were present: Messrs. Pallett (Chairman), Farquharson, Fennell, Ground and Ogilvie.

Mr. David Yule of Clarkson, Gordon & Company, the Society's Auditors, was also present.

### ROLLS AND RECORDS

*Appointments to the Bench*

The following members have been honoured by their appointments to judicial office and their membership in the Society will be placed in abeyance upon their assuming office:

| | |
|---|---|
| Robert Thomas Runciman<br>Sudbury | Called – April 13, 1962<br>Appointed Provincial Judge, Family Division, Sudbury District – May 4, 1977 |
| William Edward MacLatchy, Q.C.<br>Toronto | Called – June 25, 1953<br>Appointed Provincial Judge, Family Division, County of York – June 22, 1977 |
| Charles Russell Merredew<br>Deep River | Called September 16, 1960<br>Appointed Provincial Judge, Criminal Division, County of Renfrew – July 20, 1977 |
| Joseph Charles McGuigan James<br>Toronto | Called March 23, 1973<br>Appointed Provincial Judge, Family Division, County of York – July 20, 1977 |

*Deaths*

The following members have died:

| | |
|---|---|
| John Foster Easterbrook, Q.C.<br>Hamilton | Called – October 19, 1939<br>Deceased – June 15, 1977 |

| | |
|---|---|
| Herbert Edward Lashmar, Q.C.<br>Hamilton | Called – June 15, 1953<br>Deceased – June 3, 1977 |
| Ross Joseph Dunn, Q.C.<br>Toronto | Called – June 17, 1937<br>Deceased – June 14, 1977 |
| Ralph Bowles Newell<br>Brampton | Called – April 13, 1962<br>Deceased – July 5, 1977 |
| Desmond D'Arcy Deneau, Q.C.<br>Windsor | Called – September 17, 1931<br>Deceased – June 18, 1977 |
| John Terence Sullivan<br>St. Catharines | Called – June 29, 1950<br>Deceased – June 19, 1977 |
| Robert Earl Walker<br>Toronto | Called – June 28, 1956<br>Deceased – July 25, 1977 |
| Samuel Casey Wood, Jr.<br>Kelowna, B.C. | Called – March 25, 1966<br>Deceased – July 10, 1977 |
| Mortimer Cleeve Hooper, Q.C.<br>Toronto<br>(Life Member) | Called – May 19, 1921<br>Deceased – July 22, 1977 |
| Robert Henry Wilson, Q.C.<br>Windsor<br>(Life Member) | Called – June 19, 1919<br>Deceased – July 23, 1977 |
| Guy Meredith Jarvis<br>Toronto<br>(Life Member) | Called – September 11, 1919<br>Deceased – August 21, 1977 |
| John Frederick Biles, Q.C.<br>Toronto | Called – June 25, 1953<br>Deceased – August 11, 1977 |

*Noted*

**MEMBERSHIP UNDER RULE 50 – RETIRED MEMBER**

*Russell Robertson Sheldrick* of London, who is sixty-five years of age or over and who is fully retired from the practice of law and other employment, requested permission to continue his membership in the Society at a reduced annual fee of $25.

*Approved*

**MEMBERSHIP UNDER RULE 50 – INCAPACITATED MEMBER**

*John Montague Chisholm Greer* of Port Perry, requested consideration of his application under the new provision of Rule 50, which allows a disabled member to continue his membership in the Society at a reduced annual fee of $25. Mr. Greer was called to the Bar on 29th June, 1949.

*Approved*

**MEMBERSHIP RESTORED**

*His Honour Judge David Reilly Watson* gave notice under section 31 of The Law Society Act that he had resigned as a Judge of the Court of Sessions of the Peace, Province of Quebec, and wished to be restored to the Rolls of the Law Society. Accordingly, his membership was restored effective 9th September, 1977.

*Approved*

**LIFE MEMBERS**

Pursuant to Rule 49, the following became eligible during 1977 to be Life Members of the Society:

| | |
|---|---|
| Harpin Beaumont, Q.C. | Prescott |
| Max Benson, Q.C. | Toronto |
| Samuel Berger, Q.C. | Montreal |
| Henry Borden, Q.C. | Toronto |
| Louis Joseph Brody, Q.C. | Toronto |
| Robert Boak Burns, Q.C. | Welland |
| Samuel Parker Denovan | Toronto |
| Ewart Gladstone Dixon, Q.C. | Hamilton |
| Robert Gowan Ferguson, Q.C. | Toronto |
| Leicester Clayton Forster | St. Catharines |
| Edwin Stewart Graham, Q.C. | St. Thomas |
| James Alexander Haines, Q.C. | Toronto |
| John Newton Herapath, Q.C. | London |
| Martin MacMurray Kelso, Q.C. | Toronto |
| Alastair Maclean Macdonald, Q.C. | Ottawa |
| Gordon Forin Maclaren, Q.C. | Ottawa |
| James Gerard Mallon, Q.C. | Toronto |
| Gareth Edward Maybee, Q.C. | Mississauga |
| William Scott McKay, Q.C. | St. Thomas |
| Harold Charles Featherston Mockridge, Q.C. | Toronto |
| William Hugh Mowat | Vancouver |
| Cyril Ignatius O'Reilly | Toronto |
| William Martin Penman | Weston |
| Lewis Samuel | Toronto |
| Edward Walter Tyrrill, Q.C. | Fort Erie |

*Approved*

**CHANGES OF NAME**

*Marian Pankowski,* a student member, requested that his

name be changed on the Rolls of the Society to *Mark* Marian Pankowski. A copy of the Order of His Honour Judge Coo, dated the 7th day of March, 1977, was before the Committee.

*Susan Jean Finnie,* a solicitor practising in Ottawa, requested that her name be changed on the Rolls of the Society to Susan Jean Finnie *Ault,* thus adding her married name.

*Margaret Anne Barrett,* a solicitor practising in Ottawa, requested that her name be changed on the Rolls of the Society to Margaret Anne *Ross,* her married name.

*Beverly Linda Fien,* a student member, requested that her name be changed on the Rolls of the Society to Beverly Linda *Craven* Fien, thus including her maiden name.

*Moira Ketley,* a student member, requested that her name be changed on the Rolls of the Society to Moira *Bartram,* her maiden name.

*Cheryl Ann Hatch,* a student member, requested that her name be changed on the Rolls of the Society to Cheryl Ann *Murray,* her married name.

*Approved*

**ANNUAL FINANCIAL STATEMENT**

– *Directed by Convocation to stand to a Special Convocation to be held 23rd September, 1977.*

**1977/78 BUDGET**

– *Directed by Convocation to stand to a Special Convocation to be held 23rd September, 1977.*

**ANNUAL FEES**

The Committee recommended that the Annual Fee for the fiscal year 1977/78 be $210 per member, an increase of $15.

– *Not adopted by Convocation; see motion p. 208.*

**MAINTENANCE DEPARTMENT**

Mr. *Leo Hicks* has been engaged to fill the vacant position

of Chief Engineer in the Maintenance Department which has existed since Mr. Davidson died in November 1975. Mr. Hicks' initial responsibilities will cover heating, air conditioning and other engineering plant. It is expected that after an initial period Mr. Glen's responsibilities will reduce and Mr. Hicks will assume the position of Building Superintendent. Mr. Hicks will be assisted by Mr. *Ben Zipagang* in the engineering functions and by Mr. *Henry Warle,* who will become Assistant Building Superintendent responsible for supervision of janitorial and gardening services.

*Approved*

**LIBRARIES AND REPORTING COMMITTEE**

The following items appeared on the agenda of the Libraries and Reporting Committee at its meeting on September 8th, 1977, and were approved, subject to the approval of this Committee:

**Barristers' Library,**
**145 Queen Street West**

A new estimate in the amount of $6,000 had been received with respect to the HiRoss Denco air conditioner-dehumidifier, the purchase of which had previously been approved at a cost of approximately $5,400.

*Approved*

**County Library Grants**

*Annual Grants*

The Chief Librarian presented a memorandum respecting one law association which had sent in its Annual Return for 1976 and setting out the amounts of the grants to which it appeared to be entitled under the Regulation in 1976 and 1977.

*Approved*

*Temiskaming Law Association*

The Chief Librarian reported that Mr. George W. Kemp, Secretary-Treasurer of Temiskaming Law Association, had for-

warded a request for Special Grant under Regulation 35(1) of The Law Society Act, 1970, in the amount of $2,250 to assist in the clearance of debts incurred by the Association totalling $2,296.47. Mr. Kemp submitted details of the indebtedness and information on the budget with comparative figures for six years. The Temiskaming Law Association was incorporated on April 11, 1919, and its library was established in 1925. The Society made grants to it at that time totalling $390. Three years later, it requested and received a Special Grant in the amount of $80.25 for purposes of bringing its library up to standard. In 1972 a grant of $1,447 was made to this Association for the purpose of discharging debts. No further special grants or loans have been made to this Association since that time. This library is one of the better small district law libraries. It has a good basic collection and because of insufficient funds finds itself unable to maintain all of its subscriptions. The members of the Association have been paying high fees for some time and this year these amount to $100 per member, except for those who have practised for less than three years who pay $75. All of the members are paying a special levy this year of $25 each to maintain the collection. In 1978 it is expected the fees will rise to $125 and $100 for the same categories noted above. There were 17 members in 1977 and it is expected there will be 18 in 1978.

During the past few years a number of district law associations have received Special Grants for the purpose of clearing off debts and buying books.

Special Grants were also made to two associations for the purchase of books and payment of rebinding. It is recommended that Temiskaming receive a Special Grant in the amount of $2,250 as requested.

*Approved*

**ERRORS AND OMISSIONS INSURANCE PLAN**

There are 20 members of the Society who were called to the Bar in March 1977 and who have not complied with the requirements respecting Errors and Omissions Insurance Plan. The members in default have received reminders and the Committee was asked to approve that they be advised on September 8th, 1977, that Convocation on September 16th,

1977, will have before it a recommendation that their rights and privileges as members of the Society be suspended.

*Approved*

*Gordon Bennett Langille* paid the 1977 levy for Errors and Omissions Insurance with a cheque for $375, which was subsequently returned by the bank due to insufficient funds. Attempts to trace this member have been unsuccessful and it was recommended that his rights and privileges as a member of the Society be suspended as of September 16th, 1977. Mr. Langille was called to the Bar on 26th June, 1958.

*Approved*

WITH THE EXCEPTION OF THE FOLLOWING ITEMS:

Annual Financial Statement
1977/78 Budget
Annual Fees

**THE REPORT WAS ADOPTED**

. . . . . .

The items respecting the Annual Financial Statement and the 1977/78 Budget are to be dealt with at a Special Convocation to be held on 23rd September, 1977. The third item will be considered later today *(see motion p. 208)*.

. . . . . .

**MOTION TO SUSPEND: ARREARS OF ERRORS AND OMISSIONS INSURANCE LEVY**

It was moved, seconded and *carried* that the rights and privileges of those members who have failed to pay the levy prescribed under Section 53 of The Law Society Act within the prescribed period be suspended from the 16th of September, 1977, until their levies are paid or until applications for exemption from coverage have been approved.

Of the seven members whose names were before Convocation on 16th September, 1977, seven were suspended as of

that date. Of these, six were subsequently reinstated and the following is still suspended:

Gordon Bennett Langille – Toronto

. . . . . .

**MOTION: ANNUAL FEES 1977–78**

It was moved and seconded that the Annual Fee for membership in the Society for the fiscal year 1977-78 be $210 per member, exclusive of the Compensation Fund levy.

It was moved, seconded and *carried* that the Annual Fee for membership in the Society for the fiscal year 1977-78 be $215 per member, exclusive of the Compensation Fund levy, being an increase of $20.

The first motion was *not put.*

. . . . . .

## LEGAL EDUCATION COMMITTEE–Mr. Finlayson

Mr. G. D. Finlayson, Chairman, presented the Report of the Legal Education Committee of its meeting on Thursday, 8th September, 1977.

The following members were present: Mr. G. D. Finlayson, Chairman, Mr. J. D. Ground, Vice-Chairman, Messrs. Brulé, Cartwright, R. J. S. Gray, Rogers, Thom and Mrs. Tait.

**FACULTY APPOINTMENTS –**
**Toronto, Ottawa and London as indicated.**

It is recommended that the following appointments be made for the teaching term which commenced September 6th, 1977:

(a) *Civil Procedure I Section:* To continue as Head of Section, R. J. Rolls.

Group Instructors (Osgoode Hall): Messrs. Richard Anka, L. A. J. Barnes, T. G. Bastedo, R.

A. Blair, Herbert Brodkin, D. J. Brown, M. A. Catzman, R. G. Chapman, T. J. Dunn, Frank Felkai, S. L. Goldenberg, S. T. Goudge, R. S. Harrison, P. G. Jarvis, J. I. Laskin, L. J. Levine, J. L. McDougall, D. C. McTavish, A. C. Millward, J. T. Morin, Julian Polika, A. M. Rock, L. D. Roebuck, J. W. Rowley, D. H. Sandler, R. G. Slaght, J. D. Sloan, T. H. Wickett, B. S. Wortzman, Perce Young.

Group Instructors (Ottawa): Messrs. B. A. Carroll, G. J. Cooligan, G. P. Kelly, F. J. McDonald, D. J. Power, D. W. Scott, W. J. Simpson, W. B. Spooner, P. C. P. Thompson.

Group Instructors (London): Messrs. D. G. Gunn, P. B. Hockin, C. M. V. Pensa, C. S. Ritchie.

Stand-by Instructors (Osgoode Hall): Messrs. J. A. Campion, J. P. Dube, W. P. Cipollone, J. T. Fidler, A. M. Gans, R. G. Oatley, J. C. Osborne, H. D. Pitch, S. H. Raphael, J. D. Weir, J. D. Whiteside.

Stand-by Instructors (Ottawa): Messrs. W. M. Davis, H. G. Intven, T. D. Ray.

Stand-by Instructors (London): Messrs. J. C. Kennedy, J. W. Makins, P. M. Stillman.

(b) *Civil Procedure II Section:* To continue as Head of Section, J. W. O'Brien,

Group Instructors (Osgoode Hall): Messrs. F. R. Bowman, P. R. Braund, B. J. E. Brock, B. D. Brown, D. J. Brown, D. H. Carruthers, J. B. A. Dickie, D. G. Duke, W. G. Dutton, N. D. Dyson, D. A. Elliott, M. N. Ellis, G. W. Glass, H. J. Haffey, K. E. Howie, P. R. Jewell, C. A. Keith, Ted Kerzner, T. J. Lockwood, G. A. MacPherson, L. H. Mandel, C. S. Martin, W. T. McGenere, R. D. McLean, R. A. O'Donnell, T. H. Rachlin, V. I. Rogers, E. A. Sabol, W. P. Somers, W. S. Wigle.

Group Instructors (Ottawa): Messrs. Maurice Gautreau, D. J. Hughes, G. D. Hunter, W. R. Hunter, R. J. Kealey, W. T. Langley, John Sigouin, Barry Starr, P. A. Webber.

Group Instructors (London): Messrs. B. B. Beach, W. L. Dewar, W. A. Jenkins, D. H. Proudfoot.

Stand-by Instructors (Osgoode Hall): Messrs. L. G. Harlock, R. N. Kostyniuk, R. C. Lee, J. S. Lyons, Miss Jean L. McFarland, Messrs. B. B. Papazian, Harvey Poss, W. G. Scott.

Stand-by Instructors (Ottawa): Mr. Kenneth McCloskey.

Stand-by Instructors (London): Messrs. G. L. Bladon, V. J. Calzonetti, J. H. Gillies.

*(c)* *Faculty Appointments* (Ottawa): It is recommended that the following appointments be made for the teaching term which commenced September 6th, 1977:

| *Appointee* | *Section* |
|---|---|
| G. R. Morin | – Civil Procedure I |
| Kenneth Radnoff | – Civil Procedure II |
| Mrs. Allyne F. Thomson | – Family Law |
| A. S. Goldberg | – Creditors' & Debtors' Rights |
| D. C. Gavsie | – Income Tax |
| G. F. Henderson | – Professional Conduct |
| L. M. Joyal | – Law Office Administration |
| A. de Lotbiniere Panet | – Bookkeeping & Analysis of Financial Statements |
| C. E. O'Connor | – Corporate & Commercial Law |
| L. J. Rasmussen | – Real Estate & Landlord & Tenant<br>– Estate Planning |
| J. C. Clarke | – Administration of Estates |
| J. B. Chadwick | – Legal Aid |
| W. D. Chilcott | – Criminal Procedure |

*(d)* *Faculty Appointments* (London): It is recommended that the following appointments be made

for the teaching term which commenced September 6th, 1977:

| *Appointee* | *Section* |
|---|---|
| A. L. McKenzie | – Civil Procedure I |
| J. R. Caskey | – Civil Procedure II |
| R. M. McClean | – Family Law |
| R. J. Flinn | – Creditors' & Debtors' Rights |
| S. N. Adams | – Income Tax |
| Samuel Lerner | – Law Office Administration |
| W. E. Bell | – Professional Conduct |
| W. L. Wood, C.A. | – Bookkeeping & Analysis of Financial Statements |
| G. F. Plaxton | – Corporate & Commercial Law |
| J. G. O'Grady | – Real Estate & Landlord & Tenant |
| J. W. Cram | – Estate Planning |
| R. J. Lamon | – Administration of Estates |
| Mrs. Gretta J. Grant | – Legal Aid |
| Edward Richmond | – Criminal Procedure |

*Approved*

**BAR ADMISSION COURSE – APPEALS FROM FAILURE**

The following item was on the May and June Agendas of the Committee and Convocation on June 17th recommended that the opinion of legal counsel be obtained with respect to the following questions:

(1) What right of appeal, if any, has a student member of the Society from failure in the Bar Admission Course; and

(2) If the student member has a right of appeal from such failure does The Statutory Powers Procedure Act apply to the appeal proceeding?

H. Lorne Morphy, Q.C., was subsequently retained by the Law Society to give his opinion on these questions. Mr. Morphy's letter of opinion dated August 17th addressed to the Treasurer was before the Committee.

*Received*

**BAR ADMISSION COURSE –
O.C.U.A. OPERATING GRANT**

The Ontario Council on University Affairs asked, by telephone call to the Director's office, what, if any, submission the Law Society wished to make this year to the Council respecting the Bar Admission Course operating grant. Nancy Simmons, the Council's Secretary, proposed that the submissions should be made in writing and that representatives of the Society, at the Society's option, meet informally with Dr. W. C. Winegard, Chairman of the Council. She proposed September 19th, 20th or 21st as dates for such a meeting.

The Committee recommended that a submission be prepared for the 1978-79 fiscal year, to be presented at an informal meeting at a date later than that proposed.

**BAR ADMISSION COURSE – PRIZES**

An offer was received from Benjamin Luxenberg, Q.C., to donate an annual prize in the sum of $100 to be known as the "Benjamin Luxenberg Prize in Creditors' and Debtors' Rights" to be awarded to the student attaining the highest marks in that subject of the Bar Admission Course.

*Accepted*

**BAR ADMISSION COURSE –
DESTRUCTION OF EXAMINATION ANSWER BOOKS**

The Committee was asked to approve the destruction of the examination answer books and computer cards of the 18th Bar Admission Course which concluded February, 1977, with the exception of such records of students who failed that Course.

The Committee recommended that examination answer books and computer cards with the exception of such records of students who failed the Bar Admission Course be destroyed annually six months after completion of final examinations.

**BAR ADMISSION COURSE – STUDENT RECEPTIONS**

In anticipation of the continuation of Law Society recep-

tions for students in the teaching term of the 19th Bar Admission Course, it is proposed that they be held from 5:00 to 7:00 p.m. on the following dates:

| | | |
|---|---|---|
| Toronto | – | Thursday, 13 October 1977<br>Thursday, 17 November 1977<br>Thursday, 8 December 1977<br>Thursday, 12 January 1978<br>Thursday, 16 February 1978 |
| Ottawa | – | Wednesday, 19 October 1977<br>Wednesday, 18 January 1978 |
| London | – | Tuesday, 15 November 1977<br>Tuesday, 24 January 1978 |

*Approved*

**OTTAWA BAR ADMISSION COURSE ADVISORY COMMITTEE**

A meeting of the Ottawa Bar Admission Course Advisory Committee was held in Ottawa on Thursday, May 16th, 1977. Draft minutes of that meeting were before the Committee on June 9th. Amended minutes of that meeting were before the Committee for consideration.

A further meeting of the Ottawa Bar Admission Course Advisory Committee was held in Ottawa on Monday, August 22nd, 1977. Minutes of that meeting were before the Committee for consideration.

*Received*

**THE FIVE YEAR RULE – REGULATION 26(4a)**

Regulation 26(4a) provides that the Bar Admission Course shall be completed by every student-at-law within the five year period commencing at graduation from law school. The continued application of this rule has been questioned and the Regulation was before the Committee for consideration at the direction of the Chairman.

The Committee recommended that Regulation 26(4a) should be maintained.

**BAR ADMISSION COURSE ESTIMATES – 1977-1978**

Estimates covering the Bar Admission Course and Department of Continuing Education for the year 1977-1978 were before the Committee. It was recommended that the budgeted deficit for the Bar Admission Course be the subject of an application for a grant to the Law Foundation of Ontario.

*Approved*

**BAR ADMISSION COURSE AND CONTINUING EDUCATION**

The Committee dealt with a large number of petitions of a routine nature, and reviewed a statement setting out the Continuing Education programmes presented during the months of June, July and August, 1977 and the publications report for the same three-month period.

**THE REPORT WAS ADOPTED**

. . . . . .

## PROFESSIONAL CONDUCT COMMITTEE–Mr. Cooper

Mr. J. D. Carnwath presented the Report of the Professional Conduct Committee of its meeting on Thursday, 8th September, 1977.

The following members were present: Messrs. Cooper (Chairman), Chappell (Vice-Chairman), Carnwath, Carrier, Strauss, Mrs. Sutherland, Messrs. Tobias and Zahoruk.

**1. RULING 32**

The Committee had before it a letter from a Special Examiner pointing out the delay being experienced in collecting accounts from lawyers. Forty-three percent of outstanding accounts are two months in arrears with twenty-nine percent being due for over 120 days. The Special Examiner understands that others in his field have resorted to dealing with lawyers on a cash basis. He is reluctant to follow suit since he feels a cash basis is not only inconvenient to lawyers but also a reflection on the credit of the profession as a whole.

The Committee recommended that the profession be reminded through the Communiqué of the provisions of Ruling 32 and the special problems of Special Examiners.

2. Certain other matters were considered with the necessary instructions being issued.

### 3. REPORT OF THE SUB–COMMITTEE CONCERNING SOLICITORS ACTING AS MORTGAGE BROKERS

The above Report which came before Convocation on 17th day of June 1977 with the Committee's recommendation that it be adopted was again before Convocation.

Convocation directed that the Sub-Committee's Report stand for consideration at a later date.

**THE BALANCE OF THE REPORT WAS ADOPTED**

. . . . . .

## LIBRARIES AND REPORTING COMMITTEE–Mr. Seagram

Mrs. R. M. Tait presented the Report of the Libraries and Reporting Committee of its meeting on Thursday, 8th September, 1977.

The following members were present: Messrs. Rogers (Vice-Chairman in the Chair), Salhany, Seagram, Strauss, Mrs. Tait, and Miss A. R. McCormick.

## GREAT LIBRARY

### GIFTS AND DONATIONS

The following donations to the Great Library have been received:

| | |
|---|---|
| Messrs. Mortimer Clark, Gray & Martin, Barristers and Solicitors, Toronto | A total of 304 volumes comprising 140 volumes of Statutes, 3 volumes of Orders in Council, 103 volumes of Texts, 57 volumes of Digests, 1 volume of Reports; and 26 loose parts |
| James C. Rea, Scarborough | 3 Texts in good used condition |

**BOOK LIST**

A list of books recently purchased was submitted for approval.

*Approved*

## COUNTY LAW LIBRARIES

**CENTRAL ADMINISTRATIVE PROGRAMME**

The Secretary reported that he had received a letter from the Treasurer concerning The Law Foundation of Ontario. Mr. Salhany, the Chairman of the Sub-Committee on County and District Law Library Grants, will look into this matter and submit a report.

**PRINCE EDWARD COUNTY LAW ASSOCIATION**

The Secretary reported that he had received a letter from Miss Johanne Bezaire, concerning the incorporation of the above Law Association. The Committee recommended that the Secretary send Miss Bezaire a letter indicating that Convocation approved of the incorporation of this Law Association on February 18, 1972.

**YORK NORTH LAW ASSOCIATION**

The Secretary reported that he had received a letter requesting approval of the objects for incorporation of the above Law Association. The Committee recommended that the proposed incorporation be approved but that the words "doing business" in paragraph 3(c) of the objects be amended to "carrying on the practice of law".

**BARRISTERS' LIBRARY –**
**145 QUEEN STREET WEST**

The Secretary reported that he had received a new estimate for the HiRoss air-conditioner-dehumidifier in the amount of $6,000. The Committee recommended that this increased estimate be approved, subject to the approval of the Finance Committee.

**ANNUAL GRANT**

The Association listed below has sent in its Annual Return for the year 1976. The amount of the grants which it should receive under the Regulation in 1977 and that which it received in 1976 are as follows:

| | | | *1976* | *1977* |
|---|---|---|---|---|
| Sudbury | | $2,000.00 | | |
| | *Less 10% | 200.00 | $1,800.00 | $2,000.00 |

*Penalty for late filing.

*Approved,* subject to the approval of the Finance Committee.

**TEMISKAMING LAW ASSOCIATION**

The Secretary reported that a request had been forwarded from the above Law Association for a special grant under Regulation 35(1) of The Law Society Act in the amount of $2,250 to assist in paying off debts incurred by the Association totalling $2,295.47.

The Committee recommended that this special grant be approved, subject to the approval of the Finance Committee.

## REPORTING

**SUB–COMMITTEE ON LAW REPORTING**

The Secretary reported that the estimate of Canada Law Book Limited for the printing of the Ontario Reports from January 1 to June 30, 1978 should be added to the budget.

The Committee recommended that the budget of the Committee be so amended, subject to the approval of the Finance Committee.

**ONTARIO REPORTS –**
**MAILING CLASSIFICATION**

The Secretary reported that the Chairman had instructed him to consult Gordon Henderson concerning the inquiries of the post office about the possibility of changing the mailing

classification of the Ontario Reports from second class to third class mail.

The Committee recommended that Mr. Henderson act as spokesman for the Law Society in attempting to persuade the postal authorities that the Ontario Reports should remain second class mail.

**CLASSIFIED ADVERTISEMENT IN ONTARIO REPORTS**

The Secretary reported that he had received a letter from Albert J. Packer, a solicitor, complaining about the practice of individual solicitors and law firms soliciting replies to a box number c/o Canada Law Book Limited.

The Committee recommended that the Secretary write to Mr. Packer and indicate that the Society cannot control the manner in which replies are made to advertisements.

**LAW BOOK STORE**

The Secretary reported that he had received a letter from two ladies requesting the assistance of the Law Society in setting up a law book store near the corner of Queen and University.

The Secretary was instructed to reply that the Committee has no jurisdiction over this type of business.

**THE REPORT WAS ADOPTED**

. . . . . .

## UNAUTHORIZED PRACTICE COMMITTEE–Mr. White

Mr. P. B. Tobias, Vice-Chairman, presented the Report of the Unauthorized Practice Committee of its meeting on Thursday, 8th September, 1977.

The following members were present: Messrs. White (Chairman), Furlong, Mrs. Legge, Messrs. Seagram, Strauss and Tobias.

1. The accounts of counsel for the Law Society were all

2. The Secretary reported that he had received a letter from the Treasurer dated August 22nd, 1977 recommending that four non-bencher members of the Society be added to the Committee. The Committee recommended that this suggestion not be approved.

3. The Chairman raised the subject of the employment of a full-time investigator to carry out investigations for the Committee. The Committee turned down the suggestion that a full-time investigator be employed by the Committee. The Committee was advised by the Secretary that a retired police officer was available to conduct investigations on a part-time basis. The Committee instructed the Secretary to invite the investigator to attend the next meeting of the Committee to discuss the terms of his employment on a part-time basis by the Committee.

4. The Committee again discussed the handicap under which it operates by virtue of the six-months limitation period under The Summary Convictions Act and unanimously passed a resolution requesting that Convocation seek to have The Law Society Act amended by providing for a one-year limitation period for the institution of prosecutions under that Act. This would obviate an amendment to The Summary Convictions Act and provide a reasonable period of time in which an investigation can be carried out.

5. The Secretary reported that he had received a letter from a solicitor complaining about C.L.A.S.P. and the way in which it acted in a Small Claims Court case. The Committee recommended that this matter be again referred to the Legal Aid Committee with the suggestion that the Committee investigate the conduct of the students who handled the above case in which a senior member of the bar was personally sued without the facts being properly investigated and the students in question did not apologize to the solicitor who was sued. The Committee noted with concern that upon the facts being ascertained, the students and their supervisors at C.L.A.S.P. did not have the courtesy to apologize in writing to the aggrieved solicitor. It is the hope of the Committee that the investigation can be completed and a report made to the October meeting of the Committee.

6. The Secretary reported that he had received a letter from a solicitor enclosing an advertisement which advertises incorporations. The Secretary was instructed to write and obtain a copy of the Articles of Incorporation of the company advertising these services.

7. The Secretary reported that he had received a letter from a solicitor enclosing a letter from a Notary Public indicating that the Notary Public would draft a discharge of mortgage without charge. The Secretary was instructed to write to the solicitor stating that the Notary's letter does not indicate that he is practising law but that he is engaged in conveyancing. The Secretary was also instructed to write to the Treasurer stating that this Notary Public has been complained about many times but the evidenciary problems have been insurmountable; permission will be sought to use special investigative methods.

8. The Secretary reported that he had received a letter from a solicitor enclosing an advertisement in a Toronto newspaper which indicates that an attorney from New York State was offering immigration legal advice to those persons interested in emigrating to the United States. The Secretary was instructed to write the New York State Bar Association advising it of the Society's concern and asking for its views on the wording of the advertisement.

9. The Secretary reported that he had received a letter complaining about a company offering bankruptcy advice without charge to a company which was a defendant in a legal action. A member of the Committee undertook to investigate this matter and report back to the Committee.

10. The Secretary reported that he had received a complaint concerning a Notary Public acting as agent and filing Applications for Probate in the Surrogate Court. The Secretary was instructed to retain counsel to investigate the activities of the Notary and provide an opinion as to whether he was in breach of Section 50 of The Law Society Act and if the opinion is in the affirmative to commence a prosecution.

11. The Secretary reported that he had received a letter complaining about an employee of a collection agency identi-

fying himself as a lawyer for a collection agency and making threats to a debtor. The Secretary was instructed to write to the Ministry of Consumer and Commercial Relations and ask the Ministry to conduct an investigation of the collection agency.

12. The Secretary reported that he had received a letter from a complainant that a Notary Public calling himself a lawyer had asked for a $1,250 fee for a divorce case. The Secretary was instructed to interview the complainant and obtain all the facts.

13. The Secretary reported that he had received a letter from a solicitor complaining about a Certified General Accountant handling the incorporation of a business and charging fees and disbursements as if he were a lawyer. The Secretary was instructed to write to the Certified General Accountants Association indicating that even though the evidence of the alleged breach of Section 50 of The Law Society Act was more than 6 months old, it should be brought to its attention.

14. The Secretary reported that he had received a reply from the Assistant Provincial Director of the Ontario Legal Aid Plan which explains the way in which Campus Legal Assistance Centre operates and the type of work the law students are permitted to do. The Secretary was instructed to invite the Assistant Provincial Director to attend the October meeting of the Committee.

15. The Secretary reported that he had received two letters from solicitors complaining about an individual soliciting business for the incorporation of companies or in the alternative selling corporate shells. The Secretary was instructed to retain counsel to investigate the individual and obtain an opinion as to whether there is sufficient evidence of a breach of Section 50 of The Law Society Act to commence a prosecution.

**THE REPORT WAS ADOPTED**

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## ADMISSIONS COMMITTEE (Continued)

Mrs. L. L. Legge, Vice-Chairman, presented the balance of the Report of the Admissions Committee of its meeting on Thursday, 8th September, 1977.

The following members were present: Mrs. L. L. Legge, Vice-Chairman, Messrs. Cass, R. J. Gray, Ground, White and Mrs. Sutherland.

### BAR ADMISSION COURSE

Two applicants who had failed to file the documents required by Regulation 26(7) sought permission to file these documents and enter the present teaching term of the Bar Admission Course. The Committee approved both applications.

### DIRECT TRANSFER

The Committee considered two applications for direct transfer to practise in Ontario, one from a Manitoba solicitor and one from a New Brunswick solicitor. Both sought to proceed under Regulation 4(1). The Committee approved both applications.

### DIRECT TRANSFER FROM QUEBEC

The Committee considered fourteen applications for direct transfer to practise in Ontario from members of the Quebec Bar who sought permission to proceed under Regulation 4(2). The Committee approved all fourteen applications.

### FULL–TIME MEMBERS OF FACULTIES OF APPROVED LAW SCHOOLS

Eight members of approved law faculties asked to be called to the Bar and admitted as solicitors without examination under Regulation 9 respecting full-time members of approved law faculties in Ontario upon payment of a fee of $200. Letters confirming the eligibility of the applicants have been received from the deans of the relevant law schools for the following applicants:

| | |
|---|---|
| Louise Arbour | B.A. University of Montreal 1967<br>LL.L. University of Montreal 1970 |
| Joseph James Arvay | B.A. University of Western Ontario 1971<br>LL.B. University of Western Ontario 1974<br>LL.M. Harvard University 1975 |
| Edward Paul Belobaba | B.A. University of Waterloo 1970<br>LL.B. Osgoode Hall, York University 1973 |
| Robert Earl Forbes | B.A. University of Western Ontario 1970<br>LL.B. University of Western Ontario 1973 |
| Gerald Henry Louis Fridman | B.A. Oxford University 1948<br>LL.B. Oxford University 1950 |
| Saul Schwartz | B.A. Cambridge University 1963<br>LL.B. Cambridge University 1966<br>M.A. Cambridge University 1970<br>LL.M. Harvard University 1967 |
| Donald Robert Stuart | B.A. Natal University, South Africa 1964<br>LL.B. Natal University, South Africa 1966<br>Ph.D. Oxford University, England 1976 |
| Bruce Leslie Welling | B.Sc. The Royal Military College of Canada 1968<br>LL.B. The University of Western Ontario 1974 |

*Approved*

**READMISSION**

The following member of an approved law faculty asked to be called to the Bar and admitted as a solicitor without examination under Regulation 9 respecting full-time members of approved law faculties in Ontario upon payment of a fee of $200. A letter confirming the eligibility of the applicant has been received from the dean of the relevant law school.

| | |
|---|---|
| Graham Eric Parker | LL.B. University of Adelaide,<br>Australia 1958<br>Called to the Bar in the State of<br>South Australia in 1959 |

Professor Parker was called to the Bar and admitted as a solicitor in Ontario in 1966 under Regulation 9. He resigned from the Society in September 1970 and returned to Australia.

*Approved*

**LETTER FROM H. W. SILVERMAN, Q.C.**
**CONCERNING LAW PROFESSORS**

In a letter dated July 27th, 1977, Mr. Hugh W. Silverman suggested to the Legal Education Committee that the practice of calling law professors to the Ontario Bar be re-examined and

re-assessed.

The Committee recommended the Chairman and Vice-Chairman of this Committee and Mr. White be a sub-committee to consider Regulation 9 and report to the Committee making recommendations.

**EXTERNAL EXAMINATIONS**

Four candidates who were approved by the Committee to proceed under Regulation 4(2) sat the required comprehensive examination at Osgoode Hall.

The examinations were identified only by numbers and a report of the examiners was before the Committee.

All four candidates passed. They will proceed to the examinations on Statutes and Practice.

*Approved*

**APPROVAL OF ACCOUNT**

The Committee was asked to approve the account of Ian Scott, Q.C., of the firm, Cameron, Brewin & Scott, covering his services as the Society's counsel in respect of the hearings accorded two members of the Eighteenth Bar Admission Course. The account in the amount of $1,505.25, including disbursements, was before the Committee.

*Approved*

**ADMISSION OF STUDENTS–AT–LAW**

**Bar Admission Course**

A total of 556 candidates, having complied with the relevant Regulations, paid the required admission fee of $101 and filed the necessary papers, applied under Regulation 26(5) for admission to the Law Society as students-at-law in the Bar Admission Course as of 1st September, 1977.

**THE REPORT WAS ADOPTED**

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## PUBLIC RELATIONS COMMITTEE–Mr. Wallace

Mr. P. B. Tobias presented the Report of the Public Relations Committee of its meeting on Thursday, 8th September, 1977.

The following members were present: Professor Linden, Mrs. Tait and Mr. Fennell.

### CANADIAN BAR – JOINT NATIONAL PUBLIC RELATIONS PROGRAMME

A letter dated July 19th, 1977 from John R. Finley, Chairman of the Canadian Bar Association's Committee on Publications and Public Relations,was before the Committee for its consideration. The C.B.A. requested a grant of $4,400 for the 1977 Joint Public Relations Programme. This amount represents an increase of $400 over the last grant made on September 10th, 1975.

The Committee recommended that a grant of $4,400 be made to the Canadian Bar Association for the 1977 Joint Public Relations Programme.

### INSTITUTIONAL ADVERTISING

An undated letter from Howard J. Feldman was before the Committee for its consideration. Mr. Feldman asked the Society to consider a programme of institutional advertising about the Society itself and the lawyer referral service.

*Noted.* The Secretary to write outlining current plans.

**THE REPORT WAS ADOPTED**

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## SPECIAL COMMITTEE ON J. SHIRLEY DENISON BEQUEST

Mr. R. W. Cass presented the Report of the Special Committee on J. Shirley Denison Bequest of its meeting on Thursday, 8th September, 1977.

The following members were present: Messrs. Cass, Carnwath and Mrs. Sutherland.

### APPLICATIONS

The Committee considered three applications and

recommended that grants be made to all three applicants. Two grants are subject to the filing of financial statements by the respective applicants.

**STUDENT APPLICATIONS**

The Committee considered applications for grants from three students, together with a memorandum from the Assistant Director for the Bar Admission Course recommending that no grants be made. The Committee adopted the recommendation of the Assistant Director.

**THE REPORT WAS ADOPTED**

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**CORRESPONDENCE**

The Treasurer reported that he had received a letter from the Secretary, Mr. Kenneth Jarvis, expressing appreciation to the Benchers for their gift and condolences on the death of his father, Guy Meredith Jarvis, a Life Member of the Society.

The Treasurer reported that he had received a letter from a Bencher, Mr. Barry Pepper, expressing appreciation for the gift of flowers during his recent illness and advising as to his absence from Convocation.

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**CONVOCATION ROSE AT 4:30 P.M.**

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Read in Convocation and confirmed 21st October, 1977.

W. GIBSON GRAY
Treasurer

THE LAW SOCIETY OF UPPER CANADA

# Minutes of Convocation

Volume 2 Number 7

Members wishing to receive the Minutes of Convocation are asked to complete the form below and send it to the Society.

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The Secretary,
The Law Society of Upper Canada,
Osgoode Hall,
Toronto, Ontario
M5H 2N6

I would like to receive the Minutes of Convocation at the address below:

Name .....

Address .....

.....

.....

# MINUTES OF SPECIAL CONVOCATION
## (ABRIDGED)

Friday, 23rd September, 1977
10:00 a.m.

**PRESENT:**

The Treasurer (Mr. W. Gibson Gray) and Messrs. Bowlby, Bynoe, Carnwath, Carter, Chappell, Cooper, Farquharson, Finlayson, Furlong, R. J. S. Gray, Ground, Humphrey, Mrs. Legge, Messrs. Lochead, Ogilvie, Pallett, Pomerant, Seagram, Shibley, Strauss, Mesdames Sutherland and Tait, and Mr. Thom.

. . . . . .

## FINANCE COMMITTEE–Mr. Pallett

Mr. J. C. Pallett, Chairman, presented the Report of the Finance Committee dated 21st September, 1977.

Two items were excluded from the Report of the Finance Committee of 8th September, 1977, when the Report was approved by Convocation on the 16th September, 1977.

### 1. ANNUAL FINANCIAL STATEMENT

The financial statement for the year ended June 30th, 1977, was again before Convocation, together with the Finance Committee's recommendation that the financial statement be approved, including the notes and the appropriation of $400,000 in respect of the building renovation programme.

### 2. 1977/78 BUDGET

The Budget for the year 1977/78 was again before Convocation.

Following a discussion in Convocation on 16th September, 1977, the following changes were made:

(i) Estimated revenue from Annual Fees was amended to accord with the fee fixed by Convocation for 1977/78 at $215 per member;

(ii) A recommendation of the Committee to reduce expenditure estimates by 3% not having been acceptable to Convocation, expenditure estimates were reverted to original amounts;

(iii) Part of the estimates of the Libraries and Reporting Committee described as "Books, Special Replacements" in the amount of $19,633 was removed from the budget.

A revised Budget incorporating these changes was presented for Convocation's approval.

**THE REPORT WAS ADOPTED**

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## DISCIPLINE COMMITTEE–Mr. Lochead

### Re: DAVID ROBERT KING ROSE, Toronto

Mr. G. H. Lochead, Chairman, placed the matter before Convocation.

Messrs. Carter and Pomerant withdrew, took no part in the discussions and did not vote.

The reporter was sworn.

The solicitor did not attend but was represented by his counsel, Mr. J. D. Philp. The Society was represented by Mr. P. B. Bell.

The Secretary read the Decision of the Discipline Committee dated 25th July, 1977, wherein the solicitor was found guilty of professional misconduct. The decision was that the solicitor had failed to follow instructions given to him by a client, had not answered letters from the Law Society concerning complaints from three clients and had failed to file either an accountant's report or a statutory declaration as required by the Regulation under The Law Society Act with respect to his practice for 1974 and 1975.

Mr. Philp made no submissions with respect to the Decision. Counsel and the reporter retired.

It was moved, seconded and *carried* that the Decision of the Discipline Committee dated 25th July, 1977, wherein the solicitor was found guilty of professional misconduct be accepted.

It was moved and seconded that the solicitor's rights and privileges as a member of the Society be suspended for a period from 23rd September, 1977 until such time as the solicitor satisfy Convocation by medical evidence that he is capable of practising law.

It was moved and seconded that Convocation by Order disbar the solicitor and that his name be struck off the Roll of Solicitors and that his membership in the Society be cancelled.

It was moved but not seconded that the rights and privileges of the solicitor as a member of the Society be suspended from 23rd September, 1977 for his lifetime.

Counsel and the reporter returned.

Counsel were advised of the two motions respecting penalty before Convocation and that an adjournment might be granted because of the more severe penalty that was moved. Mr. Philp asked that the matter be adjourned to 21st October, 1977.

Counsel and the reporter withdrew.

It was moved, seconded and *carried* that the application for adjournment to 21st October, 1977 be granted.

Counsel and the reporter returned.

Counsel were advised that the adjournment to 21st October, 1977 had been granted. Counsel and the reporter retired. (See pp. 246-7.)

. . . . . .

**Re: MICHAEL THOMAS WADSWORTH, Toronto**

Mr. G. H. Lochead, Chairman, placed the matter before Convocation.

The reporter was sworn.

The solicitor attended with his counsel, Mr. H. J. Ash. The Society was represented by Mr. S. E. Traviss.

The solicitor consented to proceed without the Decision of the Discipline Committee dated 5th August, 1977, being read, and accepted the said Decision, wherein he was found guilty of professional misconduct.

The solicitor, counsel and the reporter retired.

It was moved and seconded that the Decision of the Discipline Committee dated 5th August, 1977, wherein the solicitor was found guilty of professional misconduct on specific charges 2(a), 2(b) and 2(c) be accepted.

It was moved in amendment and seconded that the Decision be amended by deleting specific charge 2(a) prior to acceptance of the Decision.

The solicitor, counsel and the reporter returned.

The solicitor and counsel were advised of the two motions before Convocation. Mr. Ash made submissions on behalf of the solicitor. Mr. Traviss made submissions on behalf of the Society.

The solicitor, counsel and the reporter retired.

The motion by way of amendment was *carried.*

The motion as amended was *carried.*

The Decision thus was that the solicitor was guilty of professional misconduct in that he had failed to comply with the requirement imposed upon him by Convocation in 1975 that he file quarterly reports on his practice and had also failed to file a Form 2 Report required by the Regulation under The Law Society Act.

The solicitor, counsel and the reporter returned, were advised of the results and then retired.

It was moved and seconded that the solicitor be reprimanded in Convocation and that he file quarterly audited financial statements on his practice for a period of two years from 23rd September, 1977.

It was moved and seconded that the matter be referred back to the Discipline Committee and that the Solicitor be reprimanded by the Discipline Committee.

The solicitor, counsel and the reporter returned and were advised of the motions before Convocation. Mr. Ash made submissions. Convocation was informed of the previous

occasion when the solicitor was disciplined. Mr. Ash made further submissions. The solicitor, counsel and the reporter withdrew.

It was moved, seconded and *carried* that the solicitor's record be placed before Convocation in the presence of the solicitor.

The solicitor, counsel and the reporter returned.

Mr. Lochead referred to the previous disciplinary action against the solicitor. Mr. Ash made further submissions.

The solicitor, counsel and the reporter retired.

The motion that the matter be referred back to the Discipline Committee was *lost*.

The motion that the solicitor be reprimanded in Convocation and that he file quarterly audited financial statements on his practice for a period of two years from 23rd September, 1977, was *carried*.

The solicitor, counsel and the reporter returned.

The solicitor and counsel were advised of the motion that had been passed. The solicitor was advised of his right of appeal and that if he wished to do so, he could waive his right of appeal and request that the penalty of reprimand be carried out forthwith. The solicitor, counsel and the reporter retired.

The solicitor, counsel and the reporter returned.

The solicitor waived his right of appeal.

The Treasurer reprimanded the solicitor.

The solicitor, counsel and the reporter withdrew.

NOTE: The solicitor is Michael Thomas Wadsworth of Don Mills, not Michael A. Wadsworth, the Toronto lawyer who is well-known in football and broadcasting.

. . . . . .

## BUILDING COMMITTEE—The Treasurer

The Treasurer presented the Report of the Building Committee of its meeting on Wednesday, 21st September, 1977.

The following members were present: Messrs. W. Gibson Gray (Chairman), Common, Ogilvie and Thom and Mrs. Legge.

Mr. Heeney was also present.

**BUILDING PROGRAMME**

1. Mr. Heeney, the Society's Architect, reported the following schedule of expected completion dates:

(a) All work other than in the Benchers' Wing will be completed by the end of 1977, including the Gentlemen Barristers' locker room (by September 26th) and the Lady Barristers' locker room (by November 30th);

(b) The Benchers' Wing, including the addition in the North Court, will be completed by March 31st 1978, unless arrangements are made for double shift working.

The Committee recommended that Mr. Heeney be asked to arrange with Dalton Engineering & Construction (1974) Limited to provide double shifts as needed to complete the work in the Benchers' Wing by the middle of February instead of the end of March.

2. Mr. Heeney further reported on the costs of Change Orders and Bulletins issued to date, including the cost of changes recommended by the Society. The estimated cost of these changes is $107,400 of which $55,000 is included in the provision for contingencies in the contract. The contract also includes a special contingency provision of $113,359.

**THE REPORT WAS RECEIVED**

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## DISCIPLINE COMMITTEE (Continued)

**Re: RONALD SAMUEL WUNDER, Toronto**

Mr. G. H. Lochead, Chairman, placed the matter before

Convocation.

The reporter was sworn.

The solicitor attended with his counsel, Mr. Miles D. O'Reilly. The Society was represented by Mr. T. J. Kielb.

On behalf of the solicitor, Mr. O'Reilly waived the reading of the Decision of the Discipline Committee dated 2nd August, 1977, and accepted the said Decision, wherein the solicitor was found guilty of professional misconduct and conduct unbecoming a barrister and solicitor. The Decision found that the solicitor had misappropriated approximately $16,000 of his clients' funds, that he had borrowed money from clients and given them his personal guarantee that the loans would be repaid and that subsequently he had made an assignment in bankruptcy.

The solicitor, counsel and the reporter retired.

It was moved and seconded that the Decision of the Discipline Committee dated 2nd August, 1977, wherein the solicitor was found guilty of professional misconduct and of conduct unbecoming a barrister and solicitor be accepted.

The solicitor, counsel and the reporter returned, were advised of the motion before Convocation and then retired.

It was moved and seconded that the Decision be amended to provide that Paragraph 2 of the Complaint with respect to the alleged misappropriation of approximately $16,000 be found not established.

The motion by way of amendment was *lost*.

The motion that the Decision be accepted was *carried*.

It was moved and seconded that Convocation by Order disbar the solicitor and that his name be struck off the Roll of Solicitors and that his membership in the Society be cancelled.

The solicitor, counsel and the reporter returned.

The solicitor and counsel were advised that the Decision had been accepted by Convocation and of the motion for disbarment. Mr. O'Reilly made submissions respecting penalty. The solicitor made submissions.

Mr. O'Reilly called Messrs. Eric Lane, Ludwig Schindler and Robert Proctor, each of whom in turn gave evidence as to

the solicitor's character.

The solicitor, counsel and the reporter withdrew.

The motion for disbarment was *carried*.

. . . . . .

## ADMISSIONS COMMITTEE–Mr. Pepper

Mrs. L. L. Legge, Vice-Chairman, presented the Report of the Admissions Committee of its meeting on Friday, 23rd September, 1977, prior to Convocation.

The following members were present: Mrs. L. L. Legge, Vice-Chairman, Mr. Ground and Mrs. Sutherland.

### REPORT OF THE EXAMINING BOARD

The report of the examination held in September, 1977, was before the Committee. Nine candidates sat the examination. Five candidates passed and four failed.

*Approved*

**THE REPORT WAS ADOPTED**

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### "BLUE PAGES" IN ONTARIO REPORTS – SUMMARIES OF REASONS FOR JUDGMENT, COURT OF APPEAL

The Treasurer reported to Convocation that the County of York Law Association and the Middlesex Law Association had passed resolutions urging that the "Blue Pages" be reinstated.

It was moved, seconded and *carried* that the question be referred to the Libraries and Reporting Committee for consideration and report.

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**SPECIAL COMMITTEE ON ERRORS AND OMISSIONS INSURANCE PLAN**

The Secretary reported that the Gestas Corporation had agreed to continue the present coverage for a further year at the same premium and that the status of the Society's own fund justifies there being no increase in the levy. He stated that this does not reflect an improvement in the loss record but results from the fact that in the first year of any new plan payments are not as high as in subsequent years and that better loss prevention techniques will be needed if insurance costs are to be held down in the future.

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**MOTION: ERRORS AND OMISSIONS OMISSIONS INSURANCE LEVY, 1978**

It was moved, seconded and *carried* that the Errors and Omissions Insurance levy for 1978 be $375 per member.

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**CONVOCATION ROSE AT 12:45 P.M.**

. . . . . .

Read in Convocation and confirmed 18th November, 1977.

W. GIBSON GRAY

Treasurer

# MINUTES OF CONVOCATION
## (ABRIDGED)

Friday, 21st October, 1977
10:00 a.m.

**PRESENT:**

The Treasurer (Mr. W. Gibson Gray) and Messrs. Bowlby, Brulé, Bynoe, Carnwath, Carrier, Carter, Cass, Chadwick, Common, Cooper, Farquharson, Fennell, Finlayson, Furlong, R.J.S. Gray, Ground, Kellock, Mrs. Legge, Messrs. Levinter, Linden, Lochead, O'Brien, Ogilvie, Outerbridge, Pallett, Pepper, Rogers, Ruby (after his election), Seagram, Shibley, Strauss, Mesdames Sutherland and Tait, Messrs. Thom, Tobias, Wallace, White and Willoughby.

. . . . . .

**MINUTES**

The Minutes of Convocation of 16th September, 1977 were read and confirmed.

. . . . . .

**ELECTION OF BENCHER**

A vacancy was caused in Convocation by R. Ian Cartwright of Toronto assuming office as a Judge of the Judicial District of York on 12th October, 1977. Convocation proceeded to elect a qualified candidate in accordance with the provisions of Section 22(2) of The Law Society Act.

It was moved, seconded and *carried* that Mr. *Clayton C. Ruby* of Toronto be elected a Bencher to fill the vacancy in Convocation.

Mr. Ruby entered Convocation and was welcomed to the Bench by the Treasurer.

. . . . . .

**ELECTION OF CHAIRMAN OF STANDING COMMITTEE**

The Treasurer informed Convocation that the *Legislation and Rules Committee* wished to elect a Chairman to replace His Honour Judge R. Ian Cartwright. Convocation adjourned for the purpose of permitting the Committee to elect a Chairman.

Convocation resumed following the Committee's meeting and received the Committee's Report as follows:

LEGISLATION AND RULES COMMITTEE: Chairman – P. G. Furlong

. . . . . .

**APPOINTMENTS TO STANDING COMMITTEES**

It was moved, seconded and *carried* that Mr. *Joseph B. Pomerant* be appointed a member of each of the following Committees: Professional Conduct, Unauthorized Practice, Public Relations.

. . . . . .

## LEGAL EDUCATION COMMITTEE–Mr. Finlayson

Mr. G. D. Finlayson, Chairman, presented the Report of the Legal Education Committee of its meeting on Thursday, 13th October, 1977.

The following members were present: Mr. G. D. Finlayson, Chairman, Mr. J. G. Ground, Vice-Chairman, Messrs. Brulé, Gray, Kellock, Rogers, Salhany, Shibley, Thom and Mrs. R. M. Tait.

**FACULTY APPOINTMENTS**

*(a) Law Office Administration:*

To continue as Head of Section: A. A. Strauss, Q.C.

Group Instructors (Osgoode Hall): Messrs. Serge Anissimoff, G. V. Armstrong, R. L. Butters, R. Y. W. Campbell, Irwin Cooper, J. M. Daniels, P. M. Feldman, Jack Greenberg, K. N. Karp, Samuel Levine, Julian Romanko, S. H. Troister, J. J. Wardlaw.

Group Instructors (Ottawa): Messrs. R. A. Barrette, Murray Citron, P.C. Labarge, J. S. Langford, R. C. McLaughlin, H.R. McNeely, J.P. Morrison, P. H. Watson.

Group Instructors (London): Messrs. G. H. Kleiman, E. C. Somerville, Miss Janet E. Stewart, Mr. J. A. Whaley.

Stand-by Instructors (London): Messrs. C. V. Laughton, L. R. Waller.

*(b) Faculty Appointment (Ottawa):*

It is recommended that the following appointment be made for the teaching term which commenced September 6th, 1977:

Ronald G. Gravelle, Senior Instructor – Estate Planning Section

*Approved*

**STUDENT MEMBERS PERMISSIBLE ROLES IN LEGAL PRACTICE**

In May and June the Committee considered the right of articled students to appear on bail applications, this being one of the permitted appearances listed in a notice published for the information of students and the profession in the Ontario Reports of 21st July, 1971, on page xv. The matter was referred to the Chairman to discuss with Chief Judge Hayes. The Chairman's letter of 18th August, 1977, to the Director, reporting on the interview with Chief Judge Hayes was before the Committee at its September meeting. On 16th September, 1977, the Committee recommended to Convocation that the right of students to appear on bail applications be removed from the list of activities permitted to student members. Convocation did not approve this recommendation and referred the matter back to the Committee. The Chairman appointed Mr. Salhany a committee of one to report on this item to the Committee.

The Committee again had before it for consideration the Chairman's letter of 18th August, 1977.

The Committee recommended that a sub-committee of Messrs. Salhany (Chairman), Shibley and R. J. Gray be appointed to propose in what matters and in what circumstances the right of audience before the Provincial Courts should be sought for students-at-law.

**BAR ADMISSION COURSE – O.C.U.A. OPERATING GRANT**

An appointment has been made for Monday, October 24th, at 10:00 a.m. at the offices of the Ontario Council on University Affairs for the Law Society to make its submission to the Council Chairman, Dr. Winegard, respecting the 1978/79 operating grant for the teaching term of the 20th Bar Admission Course. The Law Society will be represented by the Treasurer, the Chairman of Finance, the Chairman of Legal Education, the Secretary, the Finance Administrator and the Director of Legal Education.

**OTTAWA COMMUNITY LEGAL EDUCATION FOUNDATION APPLICATION FOR APPROVAL OF NAME**

The Ministry of Consumer and Commercial Relations has sought the Society's comments in respect of an application for incorporation under the name "The Ottawa Community Legal Education Foundation". The letter written on behalf of the Ministry to the Deputy Secretary, together with enclosed excerpts from the application, were before the Committee for consideration. The Director reported that the objects of the corporation appear to be directed toward community law programmes and commented that the name "The Ottawa Community Legal Foundation" would be most appropriate.

The Committee recommended that the Society object to the name "The Ottawa Community Legal Education Foundation" but not object to the name "Ottawa Community Law Programme Foundation".

**OTTAWA BAR ADMISSION COURSE PRIZE FOR HIGHEST STANDING**

An offer has been received from Messrs. Gowling & Henderson to donate an annual prize to the student who obtains the highest aggregate marks in the Bar Admission Course in Ottawa. The prize has been offered as a money prize of $500 or in other suitable form. Mr. Gordon Henderson's letter to the Assistant Director in Ottawa under date August 24th was before the Committee.

*Approved*

**BAR ADMISSION COURSE STUDENT RECEPTIONS**

The accommodation in Osgoode Hall for the Bar Admission Course student receptions on the dates approved in Committee and Convocation in September was not available and it was proposed that the Toronto student receptions be held at Osgoode Hall on the following dates in lieu of the dates heretofore approved. The changes affect the first, second and fifth of the dates in question.

Tuesday, October 11th, 1977
Tuesday, November 8th, 1977
Thursday, December 8th, 1977
Thursday, January 12th, 1978
Tuesday, February 14th, 1978

*Approved*

**BAR ADMISSION COURSE AND CONTINUING EDUCATION**

The Committee dealt with four petitions of a routine nature; considered financial statements for the Bar Admission Course and Continuing Education for the period from 1st July to 30th September, 1977; and reviewed a statement setting out the Continuing Education programmes presented during the month of September 1977 and the publications report for the month of September 1977.

**THE REPORT WAS ADOPTED**

. . . . . .

## ADMISSIONS COMMITTEE—Mr. Pepper

Mr. P. B. C. Pepper, Chairman, presented the Report of the Admissions Committee of its meeting on Thursday, 13th October, 1977.

The following members were present: Mr. P. B. C. Pepper, Chairman, Mrs. L. L. Legge, Vice-Chairman, Messrs. Cass, Finlayson, R. J. Gray, Ground, White, and Mrs. Sutherland.

## ADMISSION OF STUDENTS–AT–LAW

### Bar Admission Course

A further 301 candidates, having complied with the relevant Regulations, paid the required admission fee of $101 and filed the necessary papers, applied for admission to the Law Society as students-at-law in the Bar Admission Course as of 1st September, 1977. Of this number, 299 applied under Regulation 26(5) and two under former Regulation 5.

A further 11 candidates, having complied with the relevant Regulations, paid the required admission fee of $101 and filed the necessary papers, applied under Regulation 26(5) for admission to the Law Society as students-at-law in the Bar Admission Course as of 1st September, 1976.

Two solicitors from common law provinces, having complied with Regulation 4(1) and been granted special permission to take the teaching term of the Bar Admission Course in lieu of writing the prescribed examinations, paid the required admission fee of $101 and filed the necessary papers, applied for admission to the Law Society as students-at-law in the teaching term of the Bar Admission Course as of 1st September, 1977.

*Approved*

## CALL TO THE BAR AND CERTIFICATE OF FITNESS

### Bar Admission Course

The following candidate, having successfully completed the Eighteenth Bar Admission Course, filed the necessary documents and paid the required fee of $210, applied for Call to the Bar and to be granted a Certificate of Fitness:

Antonius Josephus Maria Zuijdwijk

The following candidate, a member of the Fifteenth Bar Admission Course, having passed the examinations required of him under Regulation 26(4)(b), filed the necessary documents and paid the required fee of $511, applied for Call to the Bar and to be granted a Certificate of Fitness:

Michel Georges Picher

## Transfer from Another Province

The following candidates, having passed the examinations set by the Examining Board, filed the necessary documents and paid the required fee of $411, applied for Call to the Bar and to be granted Certificates of Fitness:

| | |
|---|---|
| John Blair MacAulay | Province of Manitoba |
| Malcolm Hazen McConnell | Province of British Columbia |

The following candidates, having passed the comprehensive examination on Common Law and the examination set by the Examining Board, filed the necessary documents and paid the required fee of $511, applied for Call to the Bar and to be granted Certificates of Fitness:

| | |
|---|---|
| Robert Couzin | Province of Quebec |
| Adam Peter Francis Cumyn | Province of Quebec |

## Special

The following candidates, having filed the necessary papers, complied with the requirements of the Admissions Committee in their particular case and paid the required fee of $200, are entitled to be called to the Bar and to be granted a Certificate of Fitness:

| | |
|---|---|
| Louise Arbour | Osgoode Hall Law School of York University |
| Joseph James Arvay | University of Windsor |
| Edward Paul Belobaba | Osgoode Hall Law School of York University |
| Robert Earl Forbes | The University of Western Ontario |
| Gerald Henry Louis Fridman | The University of Western Ontario |
| Stanley Mathew Makuch | University of Toronto |
| Graham Eric Parker | Osgoode Hall Law School of York University (Readmission) |
| Saul Schwartz | University of Ottawa |
| Donald Robert Stuart | Queen's University |

| | |
|---|---|
| Bruce Leslie Welling | The University of Western Ontario |

*Approved*

**DIRECT TRANSFER FROM QUEBEC**

The Committee considered five applications for direct transfer to practise in Ontario from members of the Quebec Bar. All five applicants sought permission to proceed under Regulation 4(2).

*Approved*

**FULL–TIME MEMBERS OF THE FACULTIES OF APPROVED LAW SCHOOLS**

The following members of approved law faculties asked to be called to the Bar and admitted as solicitors without examination under Regulation 9 respecting full-time members of approved law faculties in Ontario upon payment of a fee of $200. Letters confirming the eligibility of the applicants had been received from the deans of the relevant law schools for the following applicants:

| | |
|---|---|
| James Donald Cameron Galloway | LL.B.(Hons.) The University of Edinburgh 1974 |
| Ross Sibbald Irwin | B.A. University of Saskatchewan 1971<br>LL.B. University of London 1974<br>LL.M. University of London 1975 |
| Roderick Alexander Macdonald | B.A. York University 1969<br>LL.B. York University 1972 |
| Robert Ivan Martin | B.A. The Royal Military College of Canada 1961<br>LL.B. University of Toronto 1967<br>LL.M. University of London 1971 |
| Edward Veitch | B.A. The University of Edinburgh 1963<br>LL.B. The University of Edinburgh 1966 |

*Approved*

**OCCASIONAL APPEARANCES**

*William David Hamilton* of the Province of Manitoba applied to proceed under Section 10 of the Regulation "Occasional Appearances in Ontario" of lawyers from other Provinces in the case of the *Board of Governors of Lakehead University v. Robert Fairfield, Macy Dubois and Klaus D. Bindhardt et al.* Having complied with the requirements of Section 10 of the Regulations, Mr. Hamilton asked to be called

to the Bar and admitted as a solicitor in Ontario.

*Walter Legget Ritchie, Q.C.*, of the Province of Manitoba applied to proceed under Section 10 of the Regulation "Occasional Appearances in Ontario" of lawyers from other Provinces in the case of the *Board of Governors of Lakehead University v. Robert Fairfield, Macy Dubois and Klaus D. Bindhardt et al.* Mr. Ritchie, having complied with the requirements of Section 10 of the Regulations, asked to receive his Call to the Bar and to be admitted as a solicitor in Ontario.

*Approved*

**CALL TO THE BAR –**
**29TH MARCH 1977**

Before the Call to the Bar ceremony took place, the Society was informed that one candidate appeared not to fulfil the requirement of good character, having been convicted of a criminal offence. The candidate was advised that the Call to the Bar could not take place until the Committee had been supplied with full information and was satisfied that the requirement of good character had been met.

The matter was considered by the Admissions Committee and in June Convocation accepted the Committee's recommendation that the application for Call to the Bar be deferred until the completion of the applicant's probationary period, this Committee *not* to remain seised of the matter.

A letter from counsel for the applicant was before the Committee. Counsel asked that the matter come again before the Admissions Committee to hear new evidence that he wished to tender, specifically, that the applicant had been discharged from the intensive psychotherapy which was a term of the probation imposed by the Court.

The Committee recommended that in view of the disposition of the matter by Convocation in June, the matter not be considered further so long as the probation continue.

**THE REPORT WAS ADOPTED**

. . . . . .

**CALL TO THE BAR**

The following candidates were presented to the Treasurer

and Convocation and were called to the Bar, and the degree of Barrister-at-law was conferred upon each of them by the Treasurer:

Michel Georges Picher
Antonius Josephus Maria Zuijdwijk
John Blair MacAulay
Malcolm Hazen McConnell
Robert Couzin
Adam Peter Francis Cumyn
Louise Arbour
Joseph James Arvay
Edward Paul Belobaba
Robert Earl Forbes
Gerald Henry Louis Fridman
Stanley Mathew Makuch
Saul Schwartz
Donald Robert Stuart
Bruce Leslie Welling
Graham Eric Parker *(Readmission)*

. . . . . .

## DISCIPLINE COMMITTEE–Mr. Lochead

### Re: DAVID ROBERT KING ROSE, Toronto

Mr. G. H. Lochead, Chairman, placed this matter before Convocation.

The reporter was sworn.

The matter was first before Special Convocation on Friday, 23rd September, 1977, when it was adjourned to the regular October Convocation. Prior to adjournment the Decision of the Discipline Committee dated 25th July, 1977, wherein the solicitor was found guilty of professional misconduct was accepted by Convocation and two motions respecting penalty were before Convocation. (See pp. 228-9.)

The quorum consisted of the following Benchers who had been present at Special Convocation on 23rd September, 1977:

The Treasurer and Messrs. Bowlby, Bynoe, Carnwath, Cooper, Farquharson, Finlayson, Furlong, Ground, Mrs. Legge, Messrs. Lochead, Ogilvie, Pallett, Seagram, Shibley, Strauss, Mesdames Sutherland and Tait, and Mr. Thom.

The solicitor did not attend. His counsel, Mr. J. D. Philp, attended on his behalf. Mr. P. B. Bell represented the Society.

Counsel were reminded of the motions respecting penalty before Convocation.

Counsel for the solicitor was ready to proceed and made submissions with respect to penalty.

Counsel and the reporter withdrew.

It was moved but not seconded, that the solicitor be suspended for a period of ten years. This motion was *not put.*

The motion for disbarment was *carried.*

. . . . . .

## FINANCE COMMITTEE–Mr. Pallett

Mr. J. C. Pallett, Chairman, presented the Report of the Finance Committee of its meeting on Thursday, 13th October, 1977.

The following members were present: Messrs. Pallett (Chairman), Brulé, Fennell, Ground, Ogilvie and Pepper.

### ROLLS AND RECORDS

*Appointments to the Bench*

The following members have been honoured by their appointments to judicial office and their membership in the Society will be placed in abeyance upon their assuming office:

| | |
|---|---|
| Robert Stanley Montgomery, Q.C., Toronto | Called – 25 June 1953<br>Appointed Judge, Supreme Court of Ontario, High Court of Justice – 9 August 1977 |
| Douglas Henry Carruthers, Q.C., Toronto | Called – 23 June 1955<br>Appointed Judge, Supreme Court of Ontario, High Court of Justice – 9 August 1977 |

| | |
|---|---|
| George Bourke Smith, Q.C., North Bay | Called – 25 June 1959<br>Appointed Judge, District of Sudbury – 9 August 1977 |
| Donald Malcolm Lawson, Q.C., Sault Ste. Marie | Called – 16 September 1948<br>Appointed County & District Court Judge, County & District of Durham – 9 August 1977 |
| Thomas Edward Quinlan, St. Catharines | Called – 25 June 1959<br>Appointed County & District Court Judge, County & District of Halton – 9 August 1977 |
| Roger Gordon Conant, Q.C., Oakville | Called – 29 June 1950<br>Appointed County & District Judge, County & District of York – 9 August 1977 |
| Ronald Earl Stauth, Q.C., Toronto | Called – 10 April 1964<br>Appointed Provincial Judge, Family Division, Oxford County – 10 August 1977 |
| Philip Gerald Givens, Q.C., Toronto | Called – 15 September 1949<br>Appointed Provincial Judge, County of York, Family Division – 24 August 1977<br>(also Chairman, Metro-Toronto Police Commission) |
| Richard Ian Cartwright, Q.C., Toronto | Called – 12 April 1962<br>Appointed County Court Judge, County of York – 22 September 1977 |

## *Deaths*

The following members have died:

| | |
|---|---|
| Marcel Goldfarb, Toronto | Called – 22 March 1974<br>Deceased – 8 September 1977 |
| John Fraser Ross Douglas, Q.C., Campbellford | Called – 21 November 1929<br>Deceased – 2 September 1977 |
| Allan Jameson Clark, Q.C., Toronto | Called – 25 June 1953<br>Deceased – 18 September 1977 |
| Louis Velanoff, Q.C., Toronto | Called – 18 September 1947<br>Deceased – 24 September 1977 |
| William H. Sipper, Toronto | Called – 19 November 1931<br>Deceased – 25 September 1977 |
| George Merle Miller, Q.C., Sudbury (Life Member) | Called – 8 December 1913<br>Deceased – 25 September 1977 |
| Albert Benjamin Nind, Hamilton (Life Member) | Called – 18 October 1917<br>Deceased – 21 September 1977 |

| | |
|---|---|
| Robert Fortune Inch, Q.C., Hamilton | Called – 24 February 1922<br>Deceased – 5 October 1977 |

*Noted*

**MEMBERSHIP UNDER RULE 50 – RETIRED MEMBERS**

*Robert Warwick Russell Marshall* of Mississauga, who is sixty-five years of age or over and who is fully retired from the practice of law and other employment, requested permission to continue his membership in the Society at a reduced annual fee of $25.

*Nathaniel Herbert Shaw* of Toronto, who is sixty-five years of age or over and who is fully retired from the practice of law and other employment, requested permission to continue his membership in the Society at a reduced annual fee of $25.

*Approved*

**CHANGE OF NAME**

*Richard Joseph Mark Tyndorf,* a student member, requested that his name be changed on the Rolls of the Society to *Richard Joseph Tyndorf.*

*Approved*

**INVESTMENT POLICY**

The Committee recommended that a Sub-Committee of the Finance Committee, composed of not less than five members, be authorized to be responsible for the investment of all funds under the control of the Society.

**COUNSEL'S ACCOUNT**

The following account from Gardiner, Roberts was submitted for approval by the Committee:

| | | |
|---|---|---|
| September 20th, 1977 | Professional Services respecting obtaining from City of Toronto of a building permit for the construction of renovations to Osgoode Hall and dealing especially with designation of land use appearing on that permit | $1,621.90 |

*Approved*

**EMPLOYEE PENSION PLAN**

The amount of pension which retired employees receive is dependant on a formula which involves three factors, namely:

1. Final average earnings;
2. Years of service;
3. Canada Pension Plan.

There appears to be an anomaly in the Plan which affects those who postpone their retirement past age 65. This anomaly arises in the definition of final average earnings which "shall mean the average of the member's annual earnings in the past five calendar years of continuous service completed prior to *normal* retirement date".

The employee who defers his retirement receives a higher pension because he has more years of service but does not benefit from the effect of any salary increases which occur between age 65 and the actual date of retirement.

The third factor (CPP pension) is not affected by the deferred retirement.

It may have been the original intention of the Plan to provide all retiring employees with a cushion against inflation which occurs up to retirement. On the other hand, the Plan makes no provision for post-retirement inflation.

If this change is to be made, it will not increase the cost of the Pension Plan. The Committee recommended that the word "normal" be deleted from the definition of final average earnings.

*Approved*

**COMPOSING EQUIPMENT**

Equipment which was originally installed for the typing and composing of Bar Admission Course books is now used mainly for the production of Minutes of Convocation and other work in the Secretary's Office. This equipment is being rented at a cost of $14,909 per annum, which includes maintenance of $2,587 per annum.

The purchase price of the three machines is $13,156. Should the machines be purchased, it will still be necessary to

pay $2,587 per annum for maintenance. There would, however, be an annual saving of $12,322. In fact, direct purchase would cost little more than one year's rental and it is recommended that the equipment now be purchased.

*Approved*

**THE REPORT WAS ADOPTED**

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**BUILDING PROJECT**

The Treasurer reported orally that the building project had proceeded generally within the estimated cost, although the electricians' strike and some unforeseen matters had caused delay and some additional cost.

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## DISCIPLINE COMMITTEE (Continued)

### GENERAL

Mr. G. H. Lochead, Chairman, presented the General Report of the Policy Section of the Discipline Committee of its meeting on Thursday, 13th October, 1977.

The following members were present: Messrs. Lochead (Chairman), Carnwath, (Vice-Chairman), Carrier, Cass, Cooper, Furlong, Mrs. Sutherland and Mr. Willoughby.

**RULING 14**

During the first eight months of this year sixty lawyers appeared before the Committee on Invitations to Attend. Of this number twenty-eight appeared as a result of borrowing situations which contravened the provisions of Ruling 14 of the Rules of Professional Conduct. The Committee wished to bring to Convocation's attention the number of Invitations relating to this Ruling with a recommendation that reference once more be made in the Communiqué to the provisions of the Ruling and the fact that the Society is taking definite steps regarding its violation.

It was moved and seconded that the Discipline Committee be asked to report on the question of the requirement that members supply a list of trust clients.

*Withdrawn,* the Chairman having agreed to include the matter on the agenda of the next meeting of the Policy Section of the Discipline Committee.

**THE REPORT WAS ADOPTED**

. . . . . .

## COMPENSATION FUND SUMMARY

Mr. J. D. Carnwath, Vice-Chairman, presented the Compensation Fund Summary for the period ended 30th September, 1977.

### COMPENSATION FUND

**For the Period 1st July, 1977 to 30th September, 1977**
**(3 months)**

| | |
|---|---|
| TOTAL RECEIPTS | $ (558.74) |
| TOTAL DISBURSEMENTS | $ 2,210.00 |
| EXCESS OF DISBURSEMENTS OVER RECEIPTS | $ (2,768.74) |
| BALANCE OF FUND at beginning of period | $1,360,674.79 |
| BALANCE OF FUND at end of period | $1,357,906.05 |

### RESUME OF GROSS CLAIMS OUTSTANDING

| | |
|---|---|
| CLAIMS RECEIVED and in the course of being processed as of 30th September 1977 | $2,921,510.14 |
| TOTAL PAID to 30th September 1977 from the commencement of the Fund on account of 997 claims of 109 solicitors | $4,040,818.59 |

**THE SUMMARY WAS RECEIVED**

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## LEGAL AID COMMITTEE–Mr. Bowlby

Mr. J. D. Bowlby, Chairman, presented the Report of the Legal Aid Committee of its meeting on Wednesday, 5th October, 1977.

The following members were present: John D. Bowlby, Chairman, and Messrs. Barnes, Carnwath, Ellis, Ferrier, Harris, Mrs. Jarmain, Messrs. Linden, McLean, Ogilvie, Salhany, Shaffer, Mrs. Smyth, Messrs. Wallace, Whealy.

Also in attendance by special invitation was John Weisdorf, Q.C., Director of Duty Counsel, Old City Hall, Toronto.

### REPORT OF THE DEPUTY DIRECTOR

*Finance*

The Director's report, pursuant to Section 95(2), for the five month period ended August 31, 1977, shows that payments from the Legal Aid Fund were less than budget by $338,000. Of this total $130,000 represents under expenditure of designated Community Clinic funds. The remaining $208,000 is accounted for as follows:

| **Under budget** | **$** | **$** |
|---|---|---|
| Criminal certificate accounts | 237,000 | |
| Duty Counsel payments | 88,000 | |
| Northern Ontario pilot project | 52,000 | |
| Area Office costs | 51,000 | |
| Provincial Office costs | 86,000 | 514,000 |
| **Over budget** | | |
| Civil certificate accounts | 209,000 | |
| Legal Advice certificate accounts | 18,000 | |
| Student Legal Aid Societies | 78,000 | |
| Salaried Duty Counsel Project | 1,000 | 306,000 |
| | | 208,000 |

Contributions received from clients are running in excess of budget by $31,000, as are recoveries in civil actions by $32,000.

Miscellaneous income, primarily consisting of interest on bank deposits, is $6,000 more than anticipated.

As at August 31, 1977, the balance in the Fund stood at $417,000.

*Statistics*

The following table compares reported activity for the first five months of this fiscal year with the activity for the same period in the previous fiscal year.

| | *5 Months ended* | | *% Change from* |
|---|---|---|---|
| | *August 31, 1977* | *August 31, 1976* | *last year* |
| Informal Applications | 39,088 | 39,915 | – 2.1 |
| Applications for certificates | 43,756 | 42,354 | + 3.3 |
| Refusals | 14,490 | 13,616 | + 6.4 |
| Certificates issued | 32,228 | 32,312 | – 0.3 |
| Persons assisted by Duty Counsel: | | | |
| Fee for service | 55,742 | 64,014 | |
| Salaried Duty Counsel | 9,722 | – | |
| Total | 65,464 | 64,014 | + 2.3 |

*Write-Offs*

George E. Wallace, Vice-Chairman, approved the write-offs of the following total of amounts due to the Legal Aid Plan: $8,404.40.

**REPORT OF THE LEGAL ACCOUNTS OFFICER**

*Reviews*

| | *Sept. 1977* | *6 Months to Sept. 30/77* | *6 Months to Sept. 30/76* |
|---|---|---|---|
| Reviews on hand | 461 | | |
| Reviews received in | 98 | 611 | 738 |
| | 559 | | |
| Settlements reviewed | 329 | 619 | 641 |
| Settlements awaiting review | 211 | | |
| Settlements awaiting further information | 19 | | |
| | 559 | | |

*Appeals*

| | *July* | *August* | *September* |
|---|---|---|---|
| Appeals to Taxing Master received during | 1 | – | 2 |
| Appeals heard by Taxing Master | – | – | 5 |
| Appeals pending at the end of the month | 10 | 7 | 3 |
| Appeals abandoned | – | 1 | 1 |

*Activity*

| | *1977/78 Fiscal Year* | | *1976/77 Fiscal Year* | |
|---|---|---|---|---|
| | *Month of Sept. 1977* | *6 Months to Sept. 1977* | *Month of Sept. 1976* | *6 Months to Sept. 1976* |
| Accounts on hand at beginning | 5998 | 4657 | 4549 | 5087 |
| Accounts received | 4769 | 30108 | 5027 | 31479 |
| Total accounts to be processed | 10767 | 34765 | 9576 | 36566 |
| Less: Files Cancelled | 49 | 258 | 32 | 204 |
| Accounts Processed | 5192 | 28981 | 4970 | 31788 |
| Balance | 5526 | 5526 | 4574 | 4574 |

The above figures do not reflect accounts for Interim Disbursements and Supplementary Payments.

**AUDITED REPORT OF THE FISCAL YEAR ENDED MARCH 31, 1977**

At the September meeting the Committee requested the Deputy Director to discuss with the Provincial Auditor the possibility of reflecting in the Legal Aid audited report the 25% statutory contribution made by the legal profession under the tariff of fees.

The Deputy Director reported that the Director of the Crown Agency Audit Branch had advised that to show the 25% contribution in the statement of receipts and disbursements would not be in accordance with generally accepted accounting principles and suggested that in future the contribution could be set out in the notes of the statement.

The Committee was not satisfied that the 25% contribution could not, in fact, be incorporated in the audited report. Reporting the contribution in the notes would not be as effective as being reported in the statement.

George E. Wallace, Ronald Ellis, and C.R. Harris, were requested to draft a letter to be forwarded to the Provincial Auditor's office requesting that the matter be reconsidered.

**DUTY COUNSEL, OLD CITY HALL, YORK COUNTY**

In September, 1976, Convocation approved a report recommending that a full-time director be appointed to supervise six staff lawyers who have replaced solicitors serving on the Duty Counsel roster in Provincial Judges Court, Old City Hall, York County. The Committee stipulated that the pilot project for extended duty counsel be instituted for a period not exceeding two years during which time it was to be monitored and evaluated by the Legal Aid Committee.

John Weisdorf, Director of Duty Counsel, Old City Hall, attended the Committee meeting and made an oral report.

The Committee enquired as to whether there had been criticism of the project from members of the public, Bar or Bench.

Mr. Weisdorf reported that the Bar appeared to support the project and that members of the Bench had advised that the six staff lawyers were of great assistance in expediting the court lists.

Mr. Weisdorf commented that according to present statistics it would appear that the average cost per case was down. He noted that a case handled under the duty counsel roster, as provided for under Section 69 of the Regulation, for such matters as remands, adjournments, bail hearings, etc., amounted to $14.65, and the cost per case under the extended duty counsel project amounted to $8.59 per case.

Mr. Weisdorf informed the Committee that in the five month period commencing April 1st, 1977 to September 3rd, 1977, 18,005 persons have been assisted by these staff lawyers. Mr. Weisdorf described in detail the number of persons repre-

sented on show cause hearings, adjournments, guilty pleas, etc.

A copy of the monthly cumulative statistical report was before Convocation.

**GROUP REPRESENTATION UNDER LEGAL AID**

In September Convocation approved the appointment of a Sub-Committee under the chairmanship of Professor Allan Linden to look into the granting of Legal Aid in those cases which are class actions, or group actions, or test cases.

The following members have been appointed to the said Sub-Committee: Professor Neil Williams, Osgoode Hall Law School, York University; Messrs. J. D. Carnwath, Bernard Shaffer, Mrs. J. Glyde Hone, Mr. W. Reid Donkin.

**SPECIAL STANDING COMMITTEE ON LEGAL ACCOUNTS**

In September Convocation passed a resolution that the Legal Aid Tariff be increased and that the matter be referred to the Special Standing Committee on Legal Accounts, and that the necessary amendments to the Regulation be sought.

Claude R. Thomson, Q.C., has accepted an invitation to join the Special Standing Committee on Legal Accounts. S. P. Webb, Q.C., has also accepted an invitation to join the said committee.

The committee is now composed of the following members: Messrs. A. C. Whealy, Chairman, G. E. Wallace, D. W. Jones, Mrs. A.C.R. Rosenthal, Messrs. R. J. Carter, L. K. Ferrier, Sidney Linden, Michael Kovach, James Austin, Ralph Back, Claude Thomson, S. P. Webb, G. D. Finlayson.

**AREA COMMITTEES**

Section 4(1) of The Legal Aid Act provides that the Law Society may appoint a Legal Aid Committee for an area.

The Committee recommended the following be appointed as members of the Area Committees in:

**Wentworth County**

Mr. Phil Leon, underwriter, Hamilton
William J. Tidball, solicitor, Hamilton
James A. Scarfone, solicitor, Hamilton

**Carleton County**

Michael J. Houle, solicitor, Hawkesbury
Michel Charbonneau, solicitor, Hawkesbury

**Waterloo County**

Rev. Ruggles C. Constant, Wesley United Church, Galt

**York County**

Stephen Price, solicitor, Toronto
Marshall Norton Margolis, solicitor, Toronto
Robert Kay, solicitor, Toronto
Michael Moldaver, solicitor, Toronto
Ronald D. Manes, solicitor, Toronto
Gordon T. Atchison, Vice-President,
H.V. Chapman & Associates Limited, Toronto
Michael Mitchell, Criminologist,
Solicitor General's Department, Toronto
Patrick Dunn, solicitor, Toronto
Ted Kielb, solicitor, Toronto
Harvey Salem, solicitor, Toronto
Samuel Darragh, solicitor, Toronto
Harold Levy, solicitor, Toronto
Stanley AvRuskin, solicitor, Toronto
Andre Dempsey, solicitor, Toronto
Robert Holden, solicitor, Toronto
George Marron, solicitor, Toronto
Stanley Smithers, solicitor, Toronto
Peter Thompson, solicitor, Toronto
Michael Ingram, solicitor, Toronto
Dave O'Connor, solicitor, Toronto
Peter J. Harris, solicitor, Toronto
Ms. Eleanor Pelrine, author, Toronto
Derek Hogg, solicitor, Toronto

**THE REPORT WAS ADOPTED**

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## PROFESSIONAL CONDUCT COMMITTEE–Mr. Cooper

Mr. A. M. Cooper, Chairman, presented the Report of the Professional Conduct Committee of its meeting on Thursday, 13th October, 1977.

The following members were present: Messrs. Cooper (Chairman), Chappell (Vice-Chairman), Kellock (Vice-Chairman), Carnwath, Carrier, Fennell, Lochead, Mrs. Sutherland and Mr. Tobias.

1. CAMAGAZINE

The Committee considered a letter from the Editor of the CAmagazine concerning the approval of that publication for the carrying of lawyers' cards. The predecessor of this publication had applied in 1970 but had been rejected. In 1975 the Insurance Claims and Appraisal Directory (Ontario Edition) had been approved. It was because of this approval that the Editor of the CAmagazine had reapplied. Ruling 16.5 of the Rules of Professional Conduct reads as follows:

> "A member may insert a card, notice or announcement in good taste in any law list, legal directory, legal periodical or similar publication, when such publication has been approved by Convocation and on such terms as Convocation may from time to time approve. Such approval may be withdrawn at any time."

While Ruling 10, which deals with signs and letterheads, permits the Committee in special circumstances to authorize exceptions no such provision is contained in Ruling 16. Accordingly, the Secretary has been instructed to advise the Editor that her publication cannot be approved.

The Committee recommended that the Treasurer appoint a Special Committee to go into the whole question of legal advertising.

2. A commercial organization has been offering a service to lawyers to help them "keep in touch with your clients and prospective clients on a regular basis about a wide variety of points of law". The service is a monthly letter entitled "Points of Law" which according to the organization's advertising is specially designed to meet a lawyer's needs in reaching clients with professionally prepared information that can be easily understood by the layman. Each letter is to be based upon the research contribution of a lawyer or other professional with

expertise in the specific topic and would be printed on the lawyer's own letterhead for mailing from his or her office. The Committee is concerned about this service because the letter would be printed on the lawyer's letterhead and therefore would appear as if the lawyer had authored it. However, the lawyer would not be responsible for the opinion set out therein. In addition such a mailing could also be used as a piece of promotional advertising and therefore the lawyer concerned could run afoul of the provisions of Ruling 3 and in particular paragraph 1 thereof which reads as follows:

> "A member shall not directly or indirectly do or permit any act or thing to be done which can reasonably be regarded as professional touting, advertising or as designed primarily to attract professional work."

The Secretary was instructed to contact the organization to bring to its attention that a lawyer making use of its services could find himself acting in an improper fashion for the aforesaid reasons. The Committee recommended that its concern for members participating in such a service be brought to the profession's attention by way of the Communiqué.

3. The Committee has in the past taken the position that, to prevent the public from being misled, the word "Associates" should not be used in a firm name unless there were at least two other lawyers in the firm whose names do not appear in the firm name. Recent correspondence from various members indicates that at least some of the lawyers in Ontario are not aware of this opinion. Accordingly, it was suggested by the Committee that an item appear in the Communiqué to clarify this situation.

4. In its June 1970 Report to Convocation the Committee expressed the opinion that cards used by members and by employees of members should clearly indicate that the members are barristers and solicitors and clearly indicate the position held by the employees so that the cards would truthfully represent their respective status and misrepresentation would thereby be avoided. The Committee considered letters from two law firms requesting advice as to whether the term "legal assistant" could be used on business cards of non-legal employees and particularly of law clerks. The Committee is of the

opinion that this term should not be used because if it were there could be some confusion as to whether or not the bearer was a lawyer.

It is suggested that consideration be given to having this item appear in the Communiqué.

5. A lady lawyer wrote to the Chairman of the Committee stating that she had been informed by a member of the Society's clerical staff that the appellation "Ms." was not an acceptable form of address for female members of the Society. The member went on to say that those women who choose to use "Ms.", herself included, have done so on the basis that their matrimonial status, however personally rewarding, is not relevant to their business affairs any more than that of a man. In addition she felt it is a useful way of addressing a woman whose marital status is not known. She has accordingly asked that female members be entitled to be addressed in the manner of their choosing.

The Committee recommended that the appellation "Ms." be considered acceptable by the Society.

6. REPORT OF THE SUB–COMMITTEE CONCERNING THE IDENTIFICATION OF "FOREIGN OFFICES" ON THE LETTERHEAD OF ONTARIO SOLICITORS

In January of 1977 a Sub-Committee was appointed to consider an enquiry as to the appropriateness of an Ontario law firm showing on its letterhead that it has offices in foreign capitals by virtue of an alleged partnership with such firms. The Sub-Committee Report, adoption of which was recommended by the Committee, is set out below.

REPORT OF THE SUB–COMMITTEE CONCERNING THE IDENTIFICATION OF "FOREIGN OFFICES" ON THE LETTERHEAD OF ONTARIO SOLICITORS

The Sub-Committee, composed of Messrs. Carnwath (Chairman), Strauss and Kellock, was established to consider and advise the Professional Conduct Committee concerning an inquiry as to the appropriateness of a firm of solicitors in Ontario indicating that it has offices in

foreign capitals by virtue of an alleged "partnership" with such firms.

The solicitor representing the firm of solicitors attended on the Professional Conduct Committee. He described the practice of the firm as "Trans-National" and indicated that he had entered into certain partnership agreements with other firms in foreign jurisdictions. It was proposed that the letterhead of the firm indicate that it had foreign offices in those jurisdictions and that the purpose of so indicating was to "enhance" the value of the opinions and reputation of the firm. In other words, the Ontario firm of Messrs. A, B and C proposes to make use of a letterhead which indicates that *that* firm has offices in such places as New York, London, Tokyo, Rio de Janeiro and Dusseldorf.

However, it appeared that, in fact, the firm of Messrs. A, B and C was not in practice *as such* in any of the places named.

The Sub-Committee studied the analogous situations in the United Kingdom and in the State of New York and a letter received from the New York County Lawyers' Association over the signature of Richard H. Moser.

The Sub-Committee recommends that the Professional Conduct Committee adopt the opinion of the New York County Lawyers' Association that "the relationship described appears to be a contractual one among separate firms, not a partnership among individual lawyers".

The Sub-Committee further recommends that the inquiry be answered by the Professional Conduct Committee advising the firm initiating the inquiry that in the Committee's opinion it would be improper to indicate on the firm letterhead that it has offices in foreign jurisdictions.

**THE REPORT WAS ADOPTED**

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## LIBRARIES AND REPORTING COMMITTEE–Mr. Seagram

Mr. C. J. Seagram, Chairman, presented the Report of the Libraries and Reporting Committee of its meeting on Thursday, 13th October, 1977.

The following members were present: Messrs. Seagram (Chairman), Rogers, Salhany, Shibley, Mrs. Tait, Messrs. Wallace and Willoughby, and Miss A. R. McCormick.

## GREAT LIBRARY

### GIFTS AND DONATIONS

The following donations to the Great Library have been received:

| | |
|---|---|
| H.R. Douglas, Q.C., Toronto | A total of 47 volumes comprising Statutes, Digests, Annotations and Texts; and a large number of loose parts of Ontario and Canada law reports. |
| John D. Honsberger, Q.C., Toronto | U.S. Laws, Statutes, etc. *Bankruptcy act and rules.* 1976 ed. by Asa S. Herzog et al. Presented at the 51st Anniversary annual meeting of the National Conference of Bankruptcy Judges, Quebec City, September 7 – 10, 1977. New York Matthew Bender, 1977. 2v. |
| Huron County Law Association, Goderich | 66 volumes of the early Statutes of Canada and of Ontario. |
| F.J. Keenan, Q.C., Crown Attorney's Office | 93 volumes comprising Government Documents, Texts and Digests. |
| McCarthy & McCarthy, Barristers & Solicitors, Toronto | 1 copy Downtowners' (Toronto) *Union List of Journals (1976) including Newspapers.* |
| Mrs. Reginae M. Tait, Toronto | 2 volumes; *The Oxford Companion to American Literature* 4th ed. and *The Oxford Companion to English Literature* 4th ed. |
| York Pioneer Historical Society, Toronto | 1 vol. Harrison, R.A. The new municipal manual for Upper Canada. 1st ed. Toronto MacLear, 1859. |

*Noted*

**BOOK LIST**

A list of books recently purchased was approved.

## REPORTING

**CANADA LAW BOOK TENDER**

The Secretary reported that he had received a tender from Canada Law Book Limited for printing the Ontario Reports for the period January 1, 1978 to December 31, 1978. For the first six months of 1978 the amount is within budget. The Committee recommended that this tender be sent to the Sub-Committee on Law Reporting for its consideration and report to the November meeting of this Committee.

**BLUE PAGES**

The Secretary reported that he had received a letter from Donald Lamont, Q.C., President of The County of York Law Association, and from several solicitors and benchers who requested that the Blue Pages be revived in the Ontario Reports. The Secretary was instructed to place this matter on the agenda for the meeting on November 4th of the Presidents of the County and District Law Associations.

**THE REPORT WAS ADOPTED**

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## UNAUTHORIZED PRACTICE COMMITTEE—Mr. White

Mr. J. G. M. White, Chairman, presented the Report of the Unauthorized Practice Committee of its meeting on Thursday, 13th October, 1977.

The following members were present: Messrs. White (Chairman), Furlong, Mrs. Legge, Messrs. Seagram and Tobias.

1. The Committee approved of the accounts of several counsel for the Law Society.

2. Mr. Brian Albright appeared before the Committee and discussed the services which he might perform for the Society.

3. The Committee instructed the Secretary to invite Harvey S. Savage, Associate Provincial Director, The Ontario Legal Aid Plan, to appear before the Committee in November to explain the way in which Campus Legal Assistance Centre operates and the type of work the law students are permitted to do.

4. The Committee discussed the Reasons for Judgment of His Honour Provincial Court Judge Menzies in which he dismissed the charges of acting as a solicitor and practising as a solicitor contrary to Section 50(1) of The Law Society Act against Robert J.W. Routley. The entity C.J. Kaufman Insurance Agency was charged with the same two offences and these charges were also dismissed. The Committee considered that the important point in the Reasons for Judgment was that the learned Judge found no evidence that the accused Routley gave any advice on legal questions or that he framed any documents intended to have legal operation. The Committee discussed the possibility of an appeal and it was decided by the Committee not to appeal. The Secretary was instructed to send a copy of the Reasons for Judgment to all County and District Law Association Presidents.

5. The Committee considered several letters concerning the methods used by a collection agency. The Committee decided that what was outlined in the correspondence was not a breach of Section 50 of The Law Society Act and that Roger Young, M.P. should be sent a copy of the memorandum of cases including the Routley decision.

6. The Secretary reported that he had received a letter from a solicitor asking for an opinion as to whether a corporation could be formed for the purpose of guaranteeing land titles. The Committee recommended that the solicitor be advised that it is a breach of Section 50 of The Law Society Act for a corporation to practise law.

7. The Secretary reported that he had received a complaint from a solicitor enclosing a form letter which outlined a complete paralegal service centre. After discussion the

Committee was of opinion that the services rendered by the paralegal service centre did not constitute practising law.

8. The Secretary reported that he had received a letter from a solicitor complaining about the methods used by a collection agency. A copy of the written material sent to debtors by this agency was before the Committee. The Committee recommended that the Secretary write a letter to the Ministry of Consumer and Commercial Relations and ask the Registrar of Collection Agencies to conduct an investigation of this matter.

**THE REPORT WAS ADOPTED**

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## PUBLIC RELATIONS COMMITTEE–Mr. Wallace

Mr. G. E. Wallace, Chairman, presented the Report of the Public Relations Committee of its meeting on Thursday, 13th October, 1977.

The following members were present: Messrs. Wallace (Chairman), Bowlby, Tobias, Willoughby and Mrs. Tait.

### CANADIAN BAR ASSOCIATION – THE NATIONAL

At the request of the Chairman there was a discussion of the contents of a letter received by the Treasurer and referred to this Committee, involving a request by Mr. Gage of the Canadian Bar Association in respect of their request for a monthly column in their publication, The National.

*Stand*

### BOOKLET ON OSGOODE HALL

The Committee discussed a booklet of coloured photographs and historical notes on Osgoode Hall for general sale and distribution, and deferred further discussion of the proposal.

**THE REPORT WAS RECEIVED**

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**SPECIAL COMMITTEE ON**
**J. SHIRLEY DENISON BEQUEST**

Mr. R. W. Cass presented the Report of the Special Committee on J. Shirley Denison Bequest of its meeting on Thursday, 13th October, 1977.

The following members were present: Messrs. Pepper (Chairman), Cass, Ogilvie.

**APPLICATIONS**

The Committee considered three applications for grants. In each case supplementary material with respect to income and expenditures had been submitted to the Committee.

The Committee recommended that grants be made to the three applicants.

**STUDENT APPLICATIONS**

The Committee had before it applications for grants from 14 students, together with a memorandum of recommendations from the Assistant Director for the Bar Admission Course.

The Committee recommended that one grant be made.

**THE REPORT WAS ADOPTED**

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**SPECIAL COMMITTEE ON**
**ERRORS AND OMISSIONS INSURANCE**

Mrs. L.L. Legge presented the Report of the Special Committee on Errors and Omissions Insurance of its meeting on Thursday, 13th October, 1977.

The following members were present: Messrs. Carthy (Chairman), Levinter, Wallace and Mrs. Legge.

**1. INVITATIONS TO ATTEND**

The Committee was asked to consider as a loss prevention technique inviting members to attend before this Committee to discuss circumstances in which they have filed claims against the

insurance, particularly those who have had repeated claims. In 1976-77, repeaters accounted for 32.5% of all claims. From the beginning of 1976 to the present they accounted for 39.3%. In this year eleven lawyers have filed two claims and four have filed three.

The Committee recommended that on an interim basis the Committee invite to attend before it members who have made multiple claims to discuss the circumstances with a view to reducing the incidence of loss. The Committee does not intend this procedure to supplant but rather to supplement the discipline procedure of an invitation to attend, and intends that it will be used in cases which do not appear to warrant the attention of the Discipline Committee.

**2. BARRISTERS' LIABILITY**

The question of the liability of barristers for negligence was raised at the last meeting but was deferred. A memorandum on the question was before the Committee.

The Committee recommended that the member be advised that the Committee is not prepared in the circumstances to dispense with coverage for members engaged in counsel work, having in mind that the law as it has developed in England may not be applicable here.

**3. DIFFERENTIAL LEVIES**

A memorandum from Mr. Stinton was before the Committee.

The Committee did not recommend any action at present.

**4. PROPORTIONATE PAYMENT OF LEVY**

A letter from Mr. Robert Holland was before the Committee.

The Committee recommended that he be advised that the arrangements he suggests cannot be negotiated with the insurers.

**THE REPORT WAS ADOPTED**

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**CONVOCATION ROSE AT 1:00 P.M.**

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Read in Convocation and confirmed 18th November, 1977.

W. GIBSON GRAY

Treasurer

THE LAW SOCIETY OF UPPER CANADA

# Minutes of Convocation

Volume 2 Number 8

Members wishing to receive the Minutes of Convocation are asked to complete the form below and send it to the Society.

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The Secretary,
The Law Society of Upper Canada,
Osgoode Hall,
Toronto, Ontario
M5H 2N6

I would like to receive the Minutes of Convocation at the address below:

Name .....

Address .....

.....

.....

NOTE: The Minutes of Convocations held in 1978 and subsequent years will be sent only to those who have returned the form to indicate they wish to receive them. The Minutes which are needed to complete Volume 1 will be sent to all members.

# MINUTES OF CONVOCATION
## (ABRIDGED)

Friday, 18th November, 1977
10:00 a.m.

**PRESENT:**

The Treasurer (Mr. W. Gibson Gray) and Messrs. Bowlby, Bynoe, Carnwath, Carrier, Carter, Carthy, Cass, Chappell, Common, Cooper, Farquharson, Fennell, Finlayson, Furlong, Goodman, R.J.S. Gray, Ground, Henderson, Kellock, Mrs. Legge, Messrs. Levinter, Linden, Lochead, O'Brien, Ogilvie, Outerbridge, Pepper, Pomerant, Rogers, Ruby, Seagram, Shepherd, Shibley, Strauss, Mesdames Sutherland and Tait, Messrs. Thom, White and Willoughby.

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**MINUTES**

The Minutes of Special Convocation of 23rd September, 1977 and of Convocation of 21st October, 1977 were read and confirmed.

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**APPOINTMENTS TO STANDING COMMITTEES**

It was moved, seconded and *carried* that Mr. *Clayton C. Ruby* be appointed a member of each of the following Committees: Legal Education, Policy Section of the Discipline Committee.

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**APPOINTMENT OF SPECIAL COMMITTEE ON ADVERTISING**

The Treasurer advised Convocation that pursuant to the recommendation contained in the Report of the Professional Conduct Committee to the October Convocation, he had

appointed a Special Committee on Advertising comprised of the following: Messrs. Fennell, Humphrey, Outerbridge, Pepper and White, the Chairman to be chosen by the members of the Committee. The Committee is to consider the whole question of legal advertising and report to Convocation with recommendations.

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**ANNUAL MEETING OF CHAIRMEN AND VICE–CHAIRMEN OF THE STANDING COMMITTEES WITH REPRESENTATIVES OF THE COUNTY AND DISTRICT LAW ASSOCIATIONS AND APPROVED LAW SCHOOLS IN ONTARIO**

The Treasurer reported that this Annual Meeting was held on Friday, 4th November, 1977, in Convocation Hall, Osgoode Hall, and that the meeting dealt with errors and omissions insurance; accreditation, specialization and advertising; transfer regulations with respect to members of the Quebec Bar; lawyer referral service; the Clinical Funding Committee of the Ontario Legal Aid Plan; reviving publication of the "Blue Pages" in the Ontario Reports; the Special Advisory Committee to the Attorney General of Ontario on the use of the French language in the Courts; and County Tariffs. He stated that the meeting was a very successful one, with many of the persons present making useful suggestions concerning the Society's affairs.

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**APPOINTMENT OF REPRESENTATIVE TO CANADIAN NATIONAL EXHIBITION ASSOCIATION**

It was moved, seconded and *carried* that Mr. *W.B. Common* be appointed the Society's representative to the Canadian National Exhibition Association for the year 1978.

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**LIBRARIES AND REPORTING COMMITTEE–Mr. Seagram**

Mr. N. MacL. Rogers, Vice-Chairman, presented the Report of the Libraries and Reporting Committee of its meeting

on Thursday, 10th November, 1977.

The following members were present: Messrs. Rogers (Vice-Chairman in the Chair), Chappell, Farquharson, Salhany, Seagram, Shibley, Strauss, Mrs. Tait, and Miss A.R. McCormick.

## GREAT LIBRARY

### BOOK LIST

A list of books recently purchased was submitted for approval.

*Approved*

## COUNTY LAW LIBRARIES

### CENTRAL ADMINISTRATIVE PROGRAMME

Mr. Salhany, Chairman of the Sub-Committee on County and District Law Library Grants, reported on the submission of the Society to the Trustees of The Law Foundation of Ontario for a grant in the amount of $322,204.20 for the period January 1st to December 31st, 1978. The total is made up of:

| | |
|---|---|
| Upkeep – Basic Materials 1978 | $ 26,234.20 |
| Purchase of Texts & Binding 1978 | 150,400.00 |
| Salaries – Assistance 1978 | 100,570.00 |
| Special Status Grants (to be apportioned by the Libraries Committee) | 45,000.00 |
| | $322,204.20 |

In his report Mr. Salhany referred to the fact that the level of improvement of the County and District Law Libraries has been substantial. He referred to the libraries which he himself had visited and mentioned that the members of the County Associations whom he spoke to expressed some pride in their county libraries because of grants from The Law Foundation of Ontario. He also referred to the fact that there is dependence on the county law library by young practitioners who do not have the resources to acquire libraries of their own.

Mr. Salhany also stated that in his view the Central Administrative Programme is operating satisfactorily from his own personal observation of six county libraries and also information supplied to him by the Chief Librarian. Stressing the continuing need for funding the Central Administrative Programme by the grants from The Law Foundation of Ontario, Mr. Salhany stated that many county libraries have set up programmes which are now dependent substantially on grants from the Foundation using the Central Administrative Programme and unless these grants continue in the future some counties are going to be in serious financial difficulty and the standard of their libraries will obviously diminish.

The Committee recommended approval of this application to The Law Foundation of Ontario for a grant of $322,204.10.

**ANNUAL GRANTS**

The Association listed below sent in its Annual Return for the year 1976. The amounts of the grant to which it is entitled under the Regulations in 1976 and 1977 are as follows:

| | *1976* | | | *1977* |
|---|---|---|---|---|
| Nipissing | $1,500.00 | | $1,775.00 | |
| | | – 10% | 177.50* | $1,597.50 |

*Penalty for late filing

*Approved,* subject to the approval of the Finance Committee.

**BARRISTERS' LIBRARY**
**145 QUEEN STREET WEST**

The Secretary submitted a letter from Mr. Heeney concerning the conditioner-dehumidifier unit to be installed to protect the books at the above library.

The Committee recommended that the Society agree to be responsible for paying for the power consumption and the maintenance of this air conditioner-dehumidifier.

*Approved,* subject to the approval of the Finance Committee.

## REPORTING

### SUB–COMMITTEE ON LAW REPORTING

Mr. Farquharson, Chairman of the Sub-Committee on Law Reporting, reported that the Canada Law Book tender for printing the Ontario Reports was approved for the period January 1 to December 31, 1978. He stated that the tender was a firm tender as to typesetting, printing, binding, mailing and handling but was conditional upon the postage remaining at 2.4 cents per copy. The Committee recommended that the tender of Canada Law Book Limited be approved for 1978. The Finance Committee had already approved the Committee's budget which included a sufficient amount to cover the printing of the Ontario Reports for the first six months of 1978. This Committee recommended that the Sub-Committee on Law Reporting should review the present contract with Canada Law Book Limited which expires December 31, 1980, and suggest any improvements that can be made to it.

**THE REPORT WAS ADOPTED**

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### SPECIAL LIAISON COMMITTEE WITH PROFESSIONAL ORGANIZATIONS COMMITTEE (ATTORNEY GENERAL OF ONTARIO)

Mr. Stuart Thom, Chairman, presented the Report of the Special Liaison Committee with the Professional Organizations Committee of its meeting on Wednesday, 9th November, 1977.

The following members were present: Messrs. Thom (Chairman), Bowlby, Brulé and Finlayson. Mr. Honsberger attended at the Chairman's invitation.

Your Committee reviewed the changes the Secretary suggested are necessary to the draft Descriptive Profile prepared by the Professional Organizations Committee to correct factual errors and to clarify other matters. A copy of the Profile amended as your Committee would like to see it will be supplied to the Chairman of the Professional Organizations

Committee along with a covering letter giving the reasons for the suggested changes.

The Chairman referred to a letter from the Professional Organizations Committee dated the 4th of November, 1977, signed by Professor Trebilcock, Research Director, and in particular to the sixth numbered paragraph of the letter which refers to intermediate briefs which the Professional Organizations Committee has requested.

The Society is being asked to develop its policy with respect to several questions including the question of "para-legal" personnel whether they should be subject to their own governing body and the question of the unionization of members of the Society as well as other matters. Your Committee has given some preliminary thought to these matters and for the assistance of Convocation in arriving at a policy now records its initial reactions:

**1. PARA–LEGAL PERSONNEL**

Your Committee does not want to attempt a definition of the practice of law or to list what falls within legal services which can only be provided by a lawyer nor to define what secretaries or law clerks should be permitted to do. It is your Committee's view that so far as associations of legal secretaries or law clerks or other para-legal personnel are concerned, the Society should co-operate in the matter of curricula and training and maintain liaison with them including perhaps representation on their Boards. Such associations however should not interfere with relations between qualified employers and their employees nor between lawyers and their clients. Your Committee is opposed to the concept of a "closed shop", that is to say your Committee believes lawyers should continue to be able to employ whomsoever they wish to work in their offices regardless of whether they may be members of law clerks or other associations.

**2. FIRM STRUCTURE**

Your Committee is of the view that it would in many instances be beneficial to members of the public if lawyers were permitted to practise in partnership with certain other professionals and sees no objection in principle to firms of lawyers

in partnership with, for example accountants, doctors or engineers, though your Committee recognizes that clients' privileges must not be jeopardized. If law practices are permitted to be incorporated, your Committee believes that the same principle of mixed professional services would apply.

### 3. UNIONIZATION

Your Committee regards unionization of employed professionals as inconsistent with professional status. Your Committee however takes no position as to whether professional employees of government or non-professional corporations may join a union or association but is of the view that in the case of employees of law firms, they must bear in mind that their first duty is to the clients and if they fail in this through any sense of loyalty or obligation to a union through withholding services or otherwise, they may be subject to discipline if clients suffer.

### 4. APPLICANTS FROM FOREIGN JURISDICTION

Your Committee is aware that a Sub-Committee of the Admissions Committee is presently engaged in a review of the Society's Regulation respecting applicants for Call to the Bar in Ontario from jurisdictions outside Canada. Your Committee will confine itself therefore to observing that with some minor alterations the present Regulation appears to be adequate and that it is appropriate for the approved law schools to conduct the evaluation of those having foreign qualifications and experience provided they obtain adequate grounding in Canadian law and procedure before being called to the Bar in this jurisdiction. Your Committee is of the view that those who are called and admitted in Ontario should be required to be Canadian citizens and that the present alternative requirement of British subjecthood should be dropped.

Since the Professional Organizations Committee is awaiting receipt of intermediate briefs setting out the Society's policy with respect to these various matters your Committee intends to proceed to develop these outlines for Convocation's further consideration and at this time seeks Convocation's reaction and direction.

**THE REPORT WAS RECEIVED**

. . . . . .

## ADMISSIONS COMMITTEE–Mr. Pepper

Mr. P.B.C. Pepper, Chairman, presented the Report of the Admissions Committee of its meeting on Thursday, 10th November, 1977.

The following members were present: Mr. P.B.C. Pepper, Chairman, Mrs. L.L. Legge, Vice-Chairman, Messrs. Cass, Ground, R.J. Gray and Mrs. Sutherland.

### CALL TO THE BAR AND CERTIFICATE OF FITNESS

#### Bar Admission Course

The following candidate, having successfully completed the Eighteenth Bar Admission Course, filed the necessary documents and paid the required fee of $210, applied for Call to the Bar and to be granted a Certificate of Fitness:

Stanley Bruce Bush

#### Special

The following candidates, having filed the necessary papers, complied with the requirements of the Admissions Committee in their particular cases and paid the required fee of $200, were entitled to be called to the Bar and to be granted a Certificate of Fitness:

| | |
|---|---|
| James Donald Cameron Galloway | – Queen's University |
| Ross Sibbald Irwin | – Queen's University |
| Roderick Alexander Macdonald | – University of Windsor |
| Edward Veitch | – University of Windsor |

#### Call to the Bar for Occasional Appearance

At its meeting on 13th October, 1977, the Admissions Committee recommended that the following be allowed to proceed under the Admissions Committee's Regulation 10

concerning "Occasional Appearances in Ontario of lawyers from other Provinces" and that upon giving the necessary undertakings, they be called to the Bar and admitted as solicitors:

| | |
|---|---|
| William David Hamilton | Province of Manitoba |
| Walter Legget Ritchie | Province of Manitoba |

*Approved*

**ADMISSION OF STUDENTS–AT–LAW**

**Bar Admission Course**

A further 101 candidates, having complied with the relevant Regulations, paid the required admission fee of $101 and filed the necessary papers, applied under Regulation 26(5) for admission to the Law Society as students-at-law in the Bar Admission Course as of 1st September, 1977.

One further candidate, having complied with the relevant Regulations, paid the required admission fee of $101 and filed the necessary papers, applied under Regulation 26(5) for admission to the Law Society as a student-at-law in the Bar Admission Course as of 1st September, 1976.

**DIRECT TRANSFER FROM QUEBEC**

The Committee considered and approved three applications to transfer to practise in Ontario from members of the Quebec Bar, who sought permission to proceed under Regulation 4(2).

**SPECIAL PETITION**

At its meeting on 13th January, 1977, the Committee considered a petition from a member of the Alberta Bar who had been teaching at McGill University since 1974. He holds a Certificate from the University of Alberta stating that his law degrees are equivalent to the LL.B. degree granted by the University of Alberta. The Committee also considered a letter from the petitioner in which he applied to proceed under Regulation 4(1) or, in the alternative, to enter the Bar Admission Course on the strength of his academic qualifications. He attended the January meeting and made submissions. The Committee recommended his application be denied.

At its meeting on 12th May, 1977, a further letter from the petitioner was before the Committee in which he asked for the Committee's definition of "engaged in the active practice of law in a Common Law Province", and "What is 'active practice'?" and whether the Committee requires the active practice to be physically in the Province (Alberta) in which he belongs to the Bar.

He asked for the Committee's interpretation of the wording of Regulation 4(1) and why the Committee had decided that he has not met the test required by that Regulation. The Committee recommended that be be advised that it concurs in the reasons stated in the Secretary's correspondence.

At its meeting on 9th June, 1977, a further letter from the petitioner was before the Committee wherein the petitioner reiterated "What does constitute 'active practice' ?". The Committee recommended that he be advised that his circumstances were carefully considered at the time he attended and made submissions to the Committee when the Committee concluded that he was not in active practice so as to satisfy the requirements of the Regulation.

A further letter dated 6th October, 1977, from the petitioner was before the Committee. In this letter he takes the position that the Admissions Committee "has still not given me a reason as to why I have not been in active practice within the meaning of Regulation 4". He also states that he believes that "Regulation 4 should be amended to permit someone of my competence and background to join The Law Society of Upper Canada". He asks who has the authority to amend these regulations and how he should proceed to make representations to that body.

The Committee recommended he be advised that the Committee carefully reviewed his circumstances but found no reason to recommend to Convocation any alteration in the disposition of his application by Convocation.

**OCCASIONAL APPEARANCE**

*Winton Karp Derby* of the Province of British Columbia applied to proceed under Section 10 of the Regulation "Occasional Appearances in Ontario of lawyers from other Provinces" in the case of *E. Bradley Brown v. Pop Shoppes of*

*Canada Limited, Pop Shoppes (Toronto) Limited and William Watson Hood.* Having complied with the requirements of Section 10 of the Regulation, Mr. Derby asked to be called to the Bar and admitted as a solicitor in Ontario.

*Approved*

**THE REPORT WAS ADOPTED**

. . . . . .

**CALL TO THE BAR**

The following candidates were presented to the Treasurer and Convocation and were called to the Bar, and the degree of Barrister-at-law was conferred upon them by the Treasurer:

Stanley Bruce Bush
James Donald Cameron Galloway
Ross Sibbald Irwin
Roderick Alexander Macdonald
Edward Veitch
William David Hamilton
Walter Legget Ritchie

. . . . . .

**SPECIAL COMMITTEE ON SPECIALIZATION IN THE PRACTICE OF LAW**

Mr. E. A. Goodman, Chairman, presented the Report of the Special Committee on Specialization in the Practice of Law of its meeting on Tuesday, 8th November, 1977.

The following members were present: Messrs. Goodman (Chairman) and Thom and Professors Mewett, Soberman and Spence.

Your Committee last reported to Convocation in February, 1977 and at that time proposed a scheme which would enable members to seek accreditation by the Society for the purpose of permitting them to show after their names in the Yellow Pages and elsewhere the areas of law in which they practise. They would be required under the proposal to maintain their competence in those areas through attending Continuing Education programs as they might be prescribed from time to time by the Society.

Your Committee's report was approved in principle by Convocation for the purpose of having its report circulated generally and the profession asked to comment on it. Your Committee's intention was that having had the benefit of the profession's reactions it could then put its recommendations into detailed and final form for Convocation's further consideration.

A copy of the report was mailed to every member together with a letter inviting them to consider the proposed scheme and to comment upon it. As a result 253 letters were received. They contained a variety of criticisms and suggestions and it was often difficult to characterize a particular letter as being either in favour of or opposed to a scheme of accreditation being attempted. It was clear, however, that approximately 60% of those who replied favoured some such scheme as that your Committee proposed being implemented. A higher proportion of those who wrote from places outside Toronto favoured the proposal than of those who replied from inside the Metropolitan area. Without attempting to mention all of the criticisms that were made the most often repeated ones were that the proposed program was unnecessary, that it would mislead the public into thinking they could identify experience in various branches of law, that it fell short of providing a means of training and identifying true specialists and that it would be cumbersome and difficult to administer.

The representatives of the various County and District Law Associations were asked to be prepared to speak to your Committee's report when they and representatives of the Ontario Law Schools met with the Chairmen and Vice-Chairmen of the Society's Standing Committees on the 4th of November this year and the matter was placed on the agenda of that meeting. Most of the criticisms which had appeared in the letters the Society received from its members were repeated by the representatives of the various local Associations and the general consensus of the meeting was opposed to your Committee's proposal, chiefly on the ground that it would serve no useful purpose.

In making the proposal contained in its last report your Committee gave consideration to three related matters which have to do with the Lawyer Referral Service, individual professional advertising and the maintenance of professional com-

petence. It is your Committee's view that these matters must still be dealt with whether by the means already suggested in its earlier report or piecemeal.

The Committee understands that the Society is already committed to the extension of the Lawyer Referral Service with the concurrence of local Law Associations until, it is hoped, it will cover the whole of the Province and that this program is proceeding as quickly as is practicable in view of the fact that some local Associations would not at present welcome the Service in their areas.

It is your Committee's view that the question of advertising should receive attention without delay and that regulations should be drafted to control advertising. Convocation in October adopted the report of the Professional Conduct Committee in which it was recommended that the Treasurer appoint a Special Committee to go into the whole question of legal advertising.

The remaining question of continuing competence should be developed at a later time but in your Committee's opinion this should not be too long delayed. When regulations governing legal advertising are in force and the profession has had some experience of them your Committee suggests that the members of the Society should then be asked to review your Committee's proposal and asked for their further suggestions.

Convocation directed that the Special Committee is to remain in existence to deal with matters which may arise from time to time on subjects with which the Committee has been dealing, such as competence.

**THE REPORT WAS ADOPTED**

. . . . . .

## LEGAL EDUCATION COMMITTEE—Mr. Finlayson

Mr. G.D. Finlayson, Chairman, presented the Report of the Legal Education Committee of its meeting on Thursday, 10th November, 1977.

The following members were present: Mr. G.D. Finlayson, Chairman, Mr. J.D. Ground, Vice-Chairman, Messrs.

Brulé, R.J.S. Gray, Rogers, Salhany, Shibley, Thom, Outerbridge and Mrs. R.M. Tait.

**FACULTY APPOINTMENTS –**
**Toronto, Ottawa and London as indicated**

It is recommended that the following appointments be made for the teaching term which commenced September 6th, 1977:

*(a) Family Law Section:*

To continue as Head of Section, J.C. MacDonald, Q.C.

Group Instructors (Osgoode Hall): Messrs. T.G. Bastedo, J.M. Banfill, G.W. Brigden, D.J. Brown, T.W. Caskie, (Miss) Rodica David, Noel Nolasco da Silva, A.B. Doran, P.M. Epstein, F.G. Felkai, F.G. Gans, G.P. Johnstone, R.J. Klassen, M.C. Kronby, Benjamin Laker, D.H. Lissaman, T.J. Lockwood, P.F. Marchildon, C. S. Martin, (Miss) Ruth E. Mesbur, R.J. Otter, R.D. Preston, G.K. Selzer, Philip Spencer, S.B. Smart, D.M. Starzynski, H.D. Stewart, R.D. Timms, G.T. Walsh, (Mrs.) Karen Weiler.

Group Instructors (Ottawa): Messrs. W.J.L. Brennan, (Miss) H.A. Harris, P.J. Lafrange, Leonard Levencrown, Leonard Max, M.J. Monaghan, (Mrs.) Mary J.B. Rice, W.L. Riles, J.D. Snipper.

Group Instructors (London): Messrs. J.J. Foreman, B.T. Granger, J.S.M. Mitchell, Alfred Mamo.

Stand-by Instructors (Osgoode Hall): Messrs. D.J. Catalano, A.S. Cooper, J.G. Goodwin, S.M. Grant, (Miss) Virginia W. Hamara, J.R.R. Jennings, (Miss) Lynn King, (Miss) Ellen M. Macdonald, Philip Reinstein, R.R. Richman.

Stand-by Instructors (Ottawa): Messrs. T.C. Barber, H.G. Doyle.

Stand-by Instructors (London): Messrs. J.J. Comartin, P.M. Ledroit.

*(b) Creditors' & Debtors' Rights Section:*

To continue as Head of Section, J.D. Honsberger, Q.C.

Group Instructors (Osgoode Hall): Messrs. D.R. Arthurs, Richard Bailey, D.J. Brown, George Flak, Harry Fogul, C.S. Goldfarb, G.S. Gringorten, R.D. Howell, A. O. Jacques, Leon Klug, Benjamin Laker, E.B. Leonard, S.H. Levitt, R.G. Marantz, Ben Martin, J.S. McKeown, J.W. Morris, S. Naftolin, P.D. Quinn, Norman Rankin, Max Shafer,

Maxwell Steidman.

Group Instructors (Ottawa): Messrs. R.D. Allard, W.F. Burrows, Frederick Cogan, J.E. Hamilton, S.E. Hendin, W.A. Joyce, P.N. Leamen, S.M. Leikin, J.D. Peart.

Group Instructors (London): Messrs. C. G. S. Dawson, R.B.Livingstone, C.H. Reeves, C.S. Stevenson.

Stand-by Instructors (Osgoode Hall): Messrs. Frank Bennett, Gerald Gold.

Stand-by Instructors (Ottawa): Messrs. J. J. Cardill, J. I. Tavel.

Stand-by Instructors (London): Messrs. W. G. Chizmar, Martin Stambler.

*(c) Income Tax Section*

To continue as Head of Section, A.R.A. Scace.

Group Instructors (Osgoode Hall): Messrs. H.J. Alpert, W.G. Beach, W.J. Bies, F.E. Cappell, D. C. Champagne, Gordon Cooper, George Corn, L. G. Dollinger, D. S. Ewens, N. H. Harris, P. H. Harris, L. R. Hepburn, G. R. Hiseler, G. L. Jacobs, H. J. Knowles, Norman Loveland, Earl Miller, M. A. Mogan, Blake Murray, Barry Naiberg, A. M. Pilling, W. S. R. Seyffert, Joel Shafer, J. D. Sharples, S. M. Sigel, J. M. Solursh, Sol Spiro, T. A. Sweeney, Tom Weisz, Allan Zener.

Group Instructors (Ottawa): Messrs. Gordon Cleland, D.S. Duncan, Richard Fitzsimmons, S.W. Goldstein, W. R. McComb, H. G. McKenzie, L. F. O. Raphael, G. J. Rip, Andrew Trotta.

Group Instructors (London): Messrs. Ross Batson, C.A., W. E. Beattie, J. W. Dunlop, J. A. Giffen.

Stand-by Instructors (Osgoode Hall): Messrs. F.A. Baker, G.R. Baker, Brian Carr, J.M. Parks, R.M. Richler, P.L. Schnier, W.E. Shaw, A.B. Waugh.

Stand-by Instructor (Ottawa): P.C. Labarge.

Stand-by Instructors (London): Messrs. D.L. McLennan, P.R. Noble.

*Approved*

**BAR ADMISSION COURSE – OTTAWA PREMISES**

The Society has been given notice by Algonquin College that Algonquin will not be able to make the classroom and

office space currently used for the Bar Admission Course available to the Law Society after June 30th, 1978. The letter of Mr. J. N. Tunney, Campus Administrator of the Woodroffe Campus, Algonquin College, dated October 14th, 1977 was before the Committee. A search for alternative premises in Ottawa is underway and it was recommended that the Director be directed to investigate and report back to the Committee recommendations for alternative accommodation for the Ottawa Bar Admission Course after June 30th, 1978.

*Approved*

**OSGOODE HALL LEGAL EDUCATION CENTRE**

It had been proposed that the activities of the Society in bar admission training and continuing legal education should be conducted under the name "Osgoode Hall Legal Education Centre" and at the direction of the Chairman the following resolution was before the Committee :

> THAT the Society conduct its educational function under the name "Osgoode Hall Legal Education Centre";
>
> THAT the Society's activities in the fields of bar admission training and continuing legal education be identified as the Bar Admission Course and Professional Development Program respectively;
>
> THAT the foregoing appellations be employed as appropriate in directories and in documents and publications emanating from the Society.

Correspondence relating to this matter was before the Committee.

*Carried*

On motion moved, seconded and carried, Convocation directed that this item *stand* to the next Convocation. *(See p. 290.)*

**BAR ADMISSION COURSE –**
**PROFESSIONAL CONDUCT EXAMINATION**

The following item in the Discipline Committee Policy Section Report was adopted in Convocation on June 17th, 1977:

> "It is recommended that the Bar Admission Course have a course and formal examination on professional conduct and solicitors' negli-

gence which all students must pass in order to be called to the Bar."

This matter was not referred to, nor considered by the Legal Education Committee and it is found to be impossible to implement the recommendation during the teaching term of the current Bar Admission Course, the Course content, time-table and examination schedule having been earlier laid down and approved in Convocation. It was proposed that this matter be re-opened and referred to the Legal Education Committee for recommendation and report.

The Committee asked that this matter be referred to it and that the proposed examination be deferred for the current teaching term pending further study and report by the Legal Education Committee.

**TORONTO BAR ADMISSION COURSE ADVISORY COMMITTEE**

The Toronto Bar Admission Course Advisory Committee met on Wednesday, October 5th, 1977 under the Chairmanship of Mr. J.J. Carthy and again on Tuesday, November 8th, 1977, under the Chairmanship of Mr. John Ground. Minutes of the meeting held on October 5th were before the Committee.

The attention of the Committee was drawn to item 4 dealing with Supplemental Examinations. This matter was further discussed at the meeting held on November 8th and at the direction of Mr. Ground, Chairman of that meeting, the following proposal was referred to the Legal Education Committee:

> "The teaching term of the 19th Bar Admission Course ends on Friday, February 24th, 1978 on which date the examination in Criminal Procedure will be written. It is expected that by that date the results of all prior examinations will have been published with the exception of the results of the examination in Estate Planning and of the examination in Administration of Estates both of which will have been written on Friday, February 10th, 1978. It is possible that the marking of the examination in Administration of Estates may have progressed as of February 24th, 1978 to the point where any candidates who have failed have been determined. If this proves to be the case then those candidates can be notified of such failure on the last mentioned date. The special examinations, held for students who by reason of illness or disability or on compassionate grounds have been unable to write one or more regular examinations, are scheduled for the week commencing Monday, March 6th, 1978.

The supplemental examinations are to be written in late April or early May in accordance with the decision of the Committee and Convocation made in May 1977.

The proposal referred to the Legal Education Committee is that a candidate who has failed one or more regular examinations not exceeding three and whose failure or failures have been made known to him or her either by publication of marks or in the case of Administration of Estates by notification on or before February 24th, 1978, may at his or her option, write a special examination or examinations in any subject or subjects failed as and for his or her supplemental examination or examinations in such subject or subjects. In every such case the special examination or examinations so written shall be finally and conclusively held to be the supplemental examination or examinations of that candidate in the subject or subjects so written and in no case shall a candidate who has opted to write any special examination as and for a supplemental examination be permitted to write a supplemental examination in an examination so failed at a later date."

The Director submitted that if the foregoing proposal is accepted and approved by the Committee it should be made subject to the following three conditions:

(1) The notification that a candidate has failed the regular examination in Administration of Estates shall be conclusively deemed to have been given to a candidate if delivered in writing personally to the candidate by a member of the staff of the Law Society on or before February 24th, 1978, or if deposited in Her Majesty's Post Office on or before February 24th, 1978 addressed to the candidate at his or her residence address shown on the Bar Admission Office records.

(2) The option to write a special examination or examinations as and for a supplemental examination or examinations must be exercised by a candidate by notice in writing signed by the candidate delivered to the Registrar of the Bar Admission Course in Toronto or to the Assistant Registrar of the Bar Admission Course in Ottawa or to the Assistant Registrar of the Bar Admission Course in London on or before 4:00 p.m. on Tuesday, February 28th, 1978.

(3) No candidate shall be entitled to write more than three supplemental examinations including any special examination written as and for a supplemental

examination. Any candidate who writes a special examination or examinations as and for a supplemental examination or examinations before publication of the results of all regular examinations and who thereafter is found to have failed more than three examinations shall not be entitled to write any further supplemental examinations and shall have failed the Bar Admission Course.

The Committee recommended that the foregoing proposal be approved for the current teaching term of the Bar Admission Course subject to the three conditions above set out and subject to rescheduling the dates for the Call to the Bar to one week later than the dates tentatively fixed therefor by Convocation in June, 1977.

**BAR ADMISSION COURSE – ASSESSMENT**

The Chairman received from seven graduates of the 1976-77 Bar Admission Course a statement containing criticisms and recommendations respecting the teaching term of the Bar Admission Course. The correspondence and statement were before the Committee for consideration.

*Deferred*

**OTTAWA BAR ADMISSION COURSE – STUDENT RECEPTION**

It has become necessary to change the date of the second Student Reception in Ottawa in order to obtain suitable catering arrangements, and it was proposed the Reception be held on January 25th instead of January 18th as previously approved.

*Approved*

**OTTAWA BAR ADMISSION COURSE – ADVISORY COMMITTEE**

The following item in the October agenda and report was directed to stand over and was again before the Committee:

> "A meeting of the Ottawa Bar Admission Course Advisory Committee was held on Tuesday, September 27th, 1977 in the boardroom of Messrs. Gowling & Henderson. The meeting was chaired by Mr. Gerald Morin. Minutes of that meeting are before the Committee for consideration."

*Noted*

**ADMISSION OF STUDENT MEMBERS**

The Committee recommended that a Special Committee be struck to establish procedures for ensuring the good character of applicants for admission as student members of the Society.

**BAR ADMISSION COURSE AND CONTINUING EDUCATION**

The Committee considered and approved three petitions for permission to extend the period of time for completion of the Bar Admission Course and recommended that one petitioner be advised that no further extension will be granted; considered financial statements for the Bar Admission Course and Continuing Education; and reviewed a summary of Continuing Education programmes presented in October 1977 and the Continuing Education publications report for October 1977.

It was moved and seconded that the proposal contained in the item *Toronto Bar Admission Course Advisory Committee,* if adopted, apply only to those in the current teaching term of the Bar Admission Course.

Convocation dealt with other matters then gave its consideration to this motion. The motion was *lost.*

It was moved, seconded and *carried* that the item *Osgoode Hall Legal Education Centre* stand to the next Convocation.

**THE REPORT AS AMENDED WAS ADOPTED**

. . . . . .

**CONVOCATION ADJOURNED FOR LUNCHEON AT 12:45 P.M.**

. . . . . .

The Treasurer and Benchers had as their guests for luncheon The Honourable Mr. Justice Edward Saunders of the High Court of Justice for Ontario of The Supreme Court of Ontario; Mr. Derek Mendes da Costa, Chairman of The Ontario

Law Reform Commission; and Dean Stanley Beck of Osgoode Hall Law School of York University.

. . . . . .

## FINANCE COMMITTEE–Mr. Pallett

Mr. P.B.C. Pepper presented the Report of the Finance Committee of its meeting on Thursday, 10th November, 1977.

The following members were present: Messrs. Brulé (Vice-Chairman), Farquharson, Ground, Pepper and R.F. Wilson.

### ROLLS AND RECORDS

*Appointments to the Bench*

The following members have been honoured by their appointments to judicial office and their membership in the Society will be placed in abeyance upon their assuming office:

| | |
|---|---|
| William Joseph Anderson, Q.C.<br>Toronto | Called – 29 June 1948<br>Appointed Judge,<br>Supreme Court of Ontario,<br>High Court of Justice –<br>14 October 1977 |
| Edward Saunders, Q.C.<br>Toronto | Called – 25 June 1953<br>Appointed Judge,<br>Supreme Court of Ontario,<br>High Court of Justice –<br>14 October 1977 |

*Deaths*

The following members have died:

| | |
|---|---|
| Samuel Parker Denovan<br>Toronto<br>(Life Member) | Called – 17 March 1927<br>Deceased – 23 September 1977 |
| James Grey Hamilton, Q.C.<br>Toronto<br>(Life Member) | Called – 18 May 1916<br>Deceased – 15 October 1977 |
| Jacob Low, Q.C.<br>Peterborough | Called – 15 September 1932<br>Deceased – 21 October 1977 |

| | |
|---|---|
| Charles Vaughan Langdon, Q.C.<br>Toronto<br>(Life Member) | Called – 25 May 1923<br>Deceased – 26 October 1977 |
| Ernest Joel Robert Wright, Q.C.<br>London | Called – 16 November 1933<br>Deceased – 7 October 1977 |
| Miss Margaret Angus MacDonald Fraser, Q.C.<br>Toronto | Called – 21 June 1928<br>Deceased – 5 November 1977 |

*Disbarments*

The following former members have been disbarred and struck off the rolls and their names have been removed from the rolls and records of the Society:

| | |
|---|---|
| Ronald Samuel Wunder<br>Toronto | Called – 10 April 1964<br>Disbarred – Convocation,<br>23 September 1977 |
| David Robert King Rose,<br>Toronto | Called – 28 June 1956<br>Disbarred – Convocation,<br>21 October 1977 |

*Readmissions*

The following former members of the Society, having complied with the requirements of the Admissions Committee, were readmitted and their membership in the Law Society was restored:

| | |
|---|---|
| Martha Babych-Trofimenko<br>Toronto | Readmitted – 4 August 1977<br>(Convocation – 17 September 1976) |
| Graham Eric Parker | Readmitted – Convocation,<br>21 October 1977 |

*Noted*

**MEMBERSHIP UNDER RULE 50 – RETIRED MEMBERS**

*Arthur William Mulock Kirkpatrick* of Toronto, who is sixty-five years of age or over and who is fully retired from the practice of law and other employment, requested permission to continue his membership in the Society at a reduced annual fee of $25.

*Approved*

**CHANGES OF NAME**

*Mary Lou Benotto-Bell*, a student member, requested that her name be changed on the rolls of the Society to Mary Lou *Benotto*, her maiden name.

*Mary Frances Poile,* a solicitor practising in Kingston, requested that her name be changed on the rolls of the Society to Mary Frances *Dunbar,* her maiden name.

*David Martin Bokofsky,* a solicitor practising in Toronto, requested that his name be changed on the rolls of the Society to David Martin *Burton.* A copy of the Order of His Honour Judge Trotter dated the 25th of October, 1977, was before the Committee.

*Isaac Basman,* a solicitor practising in Toronto, requests that his name be changed on the rolls of the Society to *Itzik* Basman. A copy of the Order of His Honour Judge Hudson was before the Committee.

*Approved*

**AUDITOR'S ACCOUNT**

Clarkson, Gordon & Company submitted their account for the audit for the year ended June 30th, 1977. This account totals $10,400 compared to $8,900 last year, details of which are as follows:

| | *1976/77* | *1975/76* |
|---|---|---|
| | $ | $ |
| General Fund | 5,000 | 4,600 |
| Bar Admission Course and Continuing Education | 3,200 | 3,000 |
| Errors and Omissions Insurance Fund | 800 | – |
| Government Grant | 1,100 | 1,000 |
| Discussions and meetings re accounting matters etc. | 300 | 300 |
| | $10,400 | $8,900 |

The item relating to the Errors and Omissions Insurance Fund is new because of the changed method of insuring members. Were it not for this change, the increase in fee would have been $700 or just under 8%.

*Approved*

**COUNSEL'S ACCOUNT**

Blaney, Pasternak, Smela and Watson submitted their account in the amount of $3,000 for work in the administration of the practice of the late Gourley Howell. This account was submitted for approval and the Committee was asked to state to

which account this amount is to be charged.

*Approved* for payment out of the General Funds of the Society.

**MAINTENANCE DEPARTMENT**

A letter of resignation from the position of Building Superintendent has been received from Mr. *John Glen.* The resignation is effective December 31st, 1977, but Mr. Glen has indicated that he would like to continue to serve the Society in a part-time capacity.

His responsibilities would be limited to those connected with banquets and similar functions with the title "Steward". Mr. Glen will also be available to assist his successor, particularly in connection with the final stages of the building renovation.

Mr. *Leo Hicks* joined the Society on September 12th, 1977, to fill the position of Chief Engineer. It was recommended that Mr. Hicks be appointed Building Superintendent effective January 1st, 1978.

Mr. *Henry Warle,* who has been with the Society since August 25th, 1964, will assume the position of Assistant Building Superintendent. His duties will encompass supervision of all janitorial and gardening services.

*Approved*

**LIBRARIES AND REPORTING COMMITTEE**

**County Library Grants**

*Annual Returns*

The Chief Librarian presented a memorandum listing a law association which had sent in its Annual Return for 1976 and setting out the amounts of the grants to which it appeared to be entitled under the Regulation in 1976 and 1977. The Libraries and Reporting Committee approved the grant at its meeting on 10th November, 1977, subject to the approval of this Committee.

*Approved*

**OSGOODE HALL FENCE**

The Society's Architect advised that it is necessary to

replace the present rubble foundation beneath the brick portion of the fence along the east side of Osgoode Hall. The cost of replacing the rubble foundation with re-inforced concrete will be $6,000.

Approval for this expenditure was given by the Chairman of Finance and the matter was submitted to the Committee for ratification.

*Approved*

**PURCHASE OF LAND**

As part of the renovation of Osgoode Hall, it was necessary for the Society to acquire title to a strip of land owned by the Province of Ontario. This land, which has an area of 302.14 square feet, is part of the courtyard to the north of the Benchers' quarters. Demolition and reconstruction in this part of Osgoode Hall involved building on this strip of land.

The Treasurer reported this matter to Convocation on July 27th, 1976, and on September 17th, 1976, Convocation approved purchase of the land at a cost of $10,000. This transaction has now been completed.

*Noted*

**FEDERATION OF LAW SOCIETIES**

At the Federation's Annual Meeting in August, an increase was made in the annual assessment from $1.50 per member to $1.75 per member. This increase was not known in time to be included in the Society's budget for 1977/78.

The amount to be paid to the Federation based on the number of fee paying members at June 30th, 1977, is:

11,074 members @ $1.75 per member = $19,379.50

The amount provided in the budget is $17,307.00 and this will, therefore, be exceeded by $2,072.50.

*Approved*

**CANADIAN LAW INFORMATION COUNCIL**

A request for financial support dated October 27th, 1977, was received from Mr. Gordon F. Henderson, Chairman, Board of Governors, Canadian Law Information Council. The Council's fund raising objective is to achieve financial participation by every Law Society, government and interest group rep-

resented by the Council.

A resolution of the Federation of Law Societies recommending that each governing body give consideration to a grant amounting to an assessment of $4.00 per member was before the Committee.

The Council stated that they would be pleased to designate members of the Council Executive to appear before the Finance Committee to support its request or to answer questions that may arise.

A previous grant of $250 was approved by Convocation on June 20th, 1975.

The Committee recommended that the Canadian Law Information Council be advised that their request came too late to be considered for inclusion in the Budget but the matter will be given further consideration and the Committee will hear representations respecting the Council's work.

**THE REPORT WAS ADOPTED**

. . . . . .

## DISCIPLINE COMMITTEE–Mr. Lochead

### GENERAL

Mr. G.H. Lochead, Chairman, presented the General Report of the Policy Section of the Discipline Committee of its meeting on Thursday, 10th November, 1977.

The following members were present: Messrs. Lochead (Chairman), Carnwath (Vice-Chairman), Cass, Cooper, Furlong and Mesdames Legge and Sutherland.

### REAL ESTATE AND DISBURSEMENTS

The Committee was advised by Mr. Anderson, the Society's auditor, that during the recent series of blitzes it came to the attention of the auditors that a surprising number of lawyers are doing one or more of the following:

(i) Searches and sub-searches charged at cost when done

by free-lance title searchers;

(ii) Searches and sub-searches charged at a flat amount per file for services performed by either the lawyer himself or a salaried employee;

(iii) Transportation charges at either a flat rate per file or actual mileage at varying rates to attend for searches or closings, on the part of free-lancers, salaried searchers or the lawyer himself;

(iv) Photocopying charges at a flat rate per file or on rates from 25 cents to 1 dollar a copy. There does not seem to be any attempt to determine and charge the actual cost of making copies;

(v) Telephone charges at a flat rate per file, regardless of whether such costs were incurred;

(vi) Miscellaneous unspecified charges at a flat rate per file;

(vii) Sheriff's certificates at a flat rate per file.

It has been decided that the Chairmen of the Discipline Committee and the Professional Conduct Committee will jointly appoint a Sub-Committee to consider the propriety of such charges.

**AUDITORS REPORT: FORM 2 – FORM 3**

Last fall when the the Discipline Committee proposed to Convocation certain changes in what is now known as the Form 2 – Form 3 Report, a Bencher expressed displeasure with having to file a list of trust obligations and a trust bank reconciliation. In order not to hold up approval of the form and thereby delay mailing to the profession, the objections were withdrawn on the understanding that the matter would be discussed with the Society's auditor, Mr. Anderson.

The Committee considered this matter at length at the October meeting, the concerned Bencher being present. It was decided that there should be no change made in the Form 2 – Form 3 Report.

**THE REPORT WAS ADOPTED**

. . . . . .

## COMPENSATION FUND SUMMARY

Mr. J.D. Carnwath, Vice-Chairman, presented the Compensation Fund Summary for the period ended 31st October, 1977.

### COMPENSATION FUND

**For the Period from 1st July, 1977 to 31st October, 1977**

**(4 months)**

| | |
|---|---|
| TOTAL RECEIPTS | $ 17,821.23 |
| TOTAL DISBURSEMENTS | $ 4,804.50 |
| EXCESS OF RECEIPTS OVER DISBURSEMENTS | $ 13,016.73 |
| BALANCE OF FUND at beginning of period | $1,360,674.79 |
| BALANCE OF FUND at end of period | $1,373,691.52 |

### RESUME OF GROSS CLAIMS OUTSTANDING

| | |
|---|---|
| CLAIMS RECEIVED and in the course of being processed as of 31st October 1977 | $3,098,984.13 |
| TOTAL PAID to 31st October 1977 from the commencement of the Fund on account of 997 claims of 109 former solicitors | $4,040,818.59 |

**THE SUMMARY WAS RECEIVED**

. . . . . .

## LEGAL AID COMMITTEE–Mr. Bowlby

Mr. J.D. Bowlby, Chairman, presented the Report of the Legal Aid Committee of its meeting on Wednesday, 9th November, 1977.

The following members were present: John D. Bowlby, Chairman, and Messrs. Barnes, Ferrier, Harris, Mrs. Jarmain, Messrs. Jones, Linden, McLean, Russell, Mrs. Smyth, Mr. Whealy.

Also in attendance by special invitation were David L.

McKenzie, Area Director, Halton County, and Mrs. Ann Williams, Secretary, Halton County.

## REPORT OF THE DEPUTY DIRECTOR

*Finance*

The Director's report, pursuant to Section 95(2), for the six month period ended September 30, 1977, shows that payments from the Legal Aid Fund were less than budget by $350,000. Of this total $149,000 represents under-expenditure of designated Community Clinic funds. The remaining $201,000 is accounted for as follows:

| **Under budget** | **$** | **$** |
|---|---|---|
| Criminal certificate accounts | 424,000 | |
| Duty Counsel payments | 102,000 | |
| Northern Ontario pilot project | 62,000 | |
| Salaried Duty Counsel project | 2,000 | |
| Area Office costs | 66,000 | |
| Provincial Office costs | 89,000 | 745,000 |
| **Over budget** | | |
| Civil certificate accounts | 445,000 | |
| Legal Advice certificate accounts | 21,000 | |
| Student Legal Aid Societies | 78,000 | 544,000 |
| | | 201,000 |

Contributions received from clients are running in excess of budget by $60,000, as are recoveries in civil actions by $35,000.

Miscellaneous income is $2,000 less than anticipated.

As at September 30, 1977, the balance in the Fund stood at $714,000.

*Statistics*

The following table compares reported activity for the first six months of this fiscal year with the activity for the same period in the previous fiscal year.

| | 6 months ended September 30, 1977 | September 30, 1976 | % Change from last year |
|---|---|---|---|
| Informal applications | 47,186 | 48,707 | – 3.1 |
| Applications for certificates | 52,842 | 51,120 | + 3.4 |
| Refusals | 17,704 | 16,264 | + 8.8 |
| Certificates issued | 38,864 | 38,743 | + 0.3 |
| Persons assisted by Duty Counsel: | | | |
| Fee for service | 66,962 | 78,088 | |
| Salaried Duty Counsel | 12,194 | – | + 1.4 |
| Total | 79,156 | 78,088 | |

The following is an analysis of assistance provided to persons who contacted area offices across the province. This analysis excludes the activity of duty counsel.

| | 6 months ended September 30, 1977 | | 6 months ended September 30, 1976 | |
|---|---|---|---|---|
| | No. | % | No. | % |
| Total persons seeking assistance (Informal and formal applications) | 100,028 | 100.0 | 99,827 | 100.0 |
| Advice and referral (Informal applications) | 47,186 | 47.2 | 48,707 | 48.8 |
| Certificates issued | 38,664 | 38.6 | 38,743 | 38.8 |
| Unassisted persons | 14,178 | 14.2 | 12,377 | 12.4 |

## REPORT OF THE LEGAL ACCOUNTS OFFICER

### *Reviews*

| | October 1977 | 7 Months to Oct. 31/77 | 7 Months to Oct. 31/76 |
|---|---|---|---|
| Reviews on hand | 230 | | |
| Reviews received in | 136 | 747 | 871 |
| | 366 | | |
| Settlements reviewed | 118 | 737 | 776 |
| Settlements awaiting review | 229 | | |
| Settlements awaiting further information | 19 | | |
| | 366 | | |

*Appeals*

| | *August* | *September* | *October* |
|---|---|---|---|
| Appeals to Taxing Master received during | – | 2 | 2 |
| Appeals heard by Taxing Master | – | 5 | 1 |
| Appeals pending at the end of the month | 7 | 3 | 4 |
| Appeals abandoned | 1 | 1 | – |

*Activity*

| | *1977/78 Fiscal Year* | | *1976/77 Fiscal Year* | |
|---|---|---|---|---|
| | *Month of Oct. 1977* | *7 Months to Oct. 1977* | *Month of Oct. 1976* | *7 Months to Oct. 1976* |
| Accounts on hand at beginning | 5526 | 4657 | 4574 | 5087 |
| Accounts received | 5348 | 35456 | 5197 | 36676 |
| Total accounts to be processed | 10874 | 40113 | 9771 | 41763 |
| Less: Files Cancelled | 50 | 308 | 47 | 251 |
| Accounts Processed | 4899 | 33880 | 5299 | 37087 |
| Balance | 5925 | 5925 | 4425 | 4425 |

**CLINICAL FUNDING COMMITTEE**

On October 27, 1977, the Clinical Funding Committee met to recommend to the Director, subject to the approval of Convocation, supplementary and special project grants to Metro Tenant Legal Services ($1,754), Canadian Environmental Law Association ($1,000), Toronto Community Law Program ($1,980) and Tenant Hotline ($390.50).

The Director recommended to Convocation that the report of the Clinical Funding Committee dated October 31, 1977, be adopted.

**DUTY COUNSEL, OLD CITY HALL, YORK COUNTY**

A Sub-Committee under the chairmanship of Professor A.M. Linden was appointed to consider the entire function of Duty Counsel as provided for under the legislation. In September, Convocation approved the Sub-Committee's report and

recommended that a full-time director be appointed to supervise six staff lawyers who have replaced solicitors serving on the Duty Counsel roster in Provincial Judges' Court, Old City Hall, York County. The Committee stipulated that the pilot project for the extended Duty Counsel be instituted for a period not exceeding two years during which time it will be monitored and evaluated by the Legal Aid Committee which will report to Convocation from time to time.

On October 5, 1977, the Sub-Committee appointed to supervise and monitor the pilot project for extended duty counsel at the Old City Hall, York County, met to evaluate the project to date and make further recommendations.

Convocation had before it an Interim Report of the Sub-Committee reviewing activities to date and recommending that in view of the success of the project, the Attorney General be requested to extend the life of the project at least one additional year to 31st March, 1979.

**GROUP REPRESENTATION UNDER LEGAL AID**

Applications have been received for the granting of legal aid in fields which may generally be defined as those cases which are class actions, or group actions or test cases.

The Osler Task Force Report recommended that certificates for legal aid should be available for group representation.

In June a Sub-Committee under the chairmanship of Professor A.M. Linden was appointed to look into the granting of legal aid in such cases.

The first Report of the Sub-Committee was before Convocation. The Sub-Committee recommended that all applications for a legal aid certificate to all Area Directors throughout the Province for any matter which might reasonably be considered a group application, an application for a class action, or a test case should be referred to the Sub-Committee for its consideration. The Sub-Committee will then communicate to the Area Director concerned its advice as to the disposition of the matter including the appropriate contribution where such is indicated.

The Sub-Committee was of the view that by reviewing such applications, it will be placed in the best position to

develop a set of guidelines for handling such applications for legal aid and, if necessary, to formulate concrete proposals for amendments to the relevant legislation, and to make recommendations to the Legal Aid Committee.

**SUB–COMMITTEE RE: ADMINISTRATION OF LEGAL AID IN WENTWORTH COUNTY**

In May the Committee recommended that a sub-committee be appointed under the chairmanship of C. R. Harris, solicitor, to determine the need to increase the number of clinics in the Hamilton area. The Victoria Park Legal Aid Clinic has for many years performed an extremely useful service in Hamilton and a suggestion was made that clinical services in Wentworth be extended.

The said Sub-Committee was also asked to make such recommendations as it deemed appropriate with respect to the extension of legal aid in the Hamilton area.

The Legal Aid Committee has now received the report of the said Sub-Committee for study and further consideration. The Chairman will report verbally to Convocation on the work of the said Sub-Committee.

**AREA DIRECTORS' MEETING**

An Area Directors' meeting has been called for Friday, December 2nd, 1977, to be held in the Provincial Director's office. Discussions will be held on the working paper with respect to regionalization. All members of the Legal Aid Committee have been invited to attend the meeting.

**AREA COMMITTEES**

Section 4(1) of The Legal Aid Act provides that the Law Society may appoint a Legal Aid Committee for an area.

The Committee recommended the following be appointed as members of the Area Committees in:

**Waterloo**

Bruce J. Frazer, solicitor, Cambridge

**Simcoe**

Oakley Grey, Mayor of Alliston

**Welland**

Michael S. Stratton, solicitor, Welland

**RESIGNATIONS**

**Waterloo**

R. J. Miller, solicitor, Cambridge

**THE REPORT WAS ADOPTED**

. . . . . .

## UNAUTHORIZED PRACTICE COMMITTEE–Mr. White

Mr. P.G. Furlong presented the Report of the Unauthorized Practice Committee of its meeting on Thursday, 10th November, 1977.

The following members were present: Mr. P.G. Furlong (Acting Chairman), Mrs. Legge, Messrs. Pomerant, Seagram, and Strauss.

1. The Committee approved of two accounts of counsel for the Law Society.

2. Harvey S. Savage, Associate Provincial Director, The Ontario Legal Aid Plan, and Professor R. J. Gathercole and Mr. Burns, a member of the Executive of the Student's Legal Aid Society at the University of Toronto, appeared before the Committee and indicated to the Committee the type of work the law students are permitted to do, the supervision of their work by the full time solicitors, the faculty and two practising lawyers who devote two afternoons a week to the work of supervision. The Chairman confirmed to Professor Gathercole that he had been under no obligation to attend the meeting but the Committee was grateful for his offer to come and explain how the Campus Legal Assistance Centre operates.

3. The Secretary was instructed to write to Ms. Francine

Gazzara indicating that on the information which was before the Committee in her two letters dated October 18th and November 8th, 1977, the research service for solicitors conducted by law students would not appear to be unauthorized practice providing: (a) that the students doing the legal research and being paid by firms or individual solicitors should be supervised by a member of the Law Society; (b) the students can give no legal opinions themselves but the opinion must be the responsibility of and signed by the supervisor who is a member of the Law Society; and (c) the supervisor, if employed by a corporation, must comply with the rules of professional conduct.

4. The Committee considered a complaint concerning a collection agency which had sent a collection notice signed by a lay person with the word "Legal" stamped under the signature. The Secretary was instructed to advise the complainant that this was not unauthorized practice in breach of Section 50 of The Law Society Act. The Secretary was also instructed to advise the complainant that the company had been advised by the Ministry of Consumer and Commercial Relations that collection agencies are prohibited from using the word "legal" where a lay person has signed a collection notice.

5. The Committee considered a complaint concerning a typing agency, a division of a larger organization which holds itself out as incorporating companies. The Secretary was instructed to refer this matter to counsel for an opinion as to whether there was a breach of Section 50 of The Law Society Act.

6. The Committee received a letter from a solicitor complaining that a Manitoba solicitor was practising law in Ontario. The Secretary was instructed to write to the complainant solicitor to ascertain if he has any further evidence that the Winnipeg solicitor practised law in Ontario. On the material before the Committee there was no evidence that showed whether the Manitoba solicitor had practised law in Ontario. The Secretary was also instructed to treat the complaint by the Winnipeg lawyer about the Ontario lawyer being in breach of an undertaking in the same manner that complaints are usually processed.

7. The Secretary reported that he had received a letter from a solicitor complaining about a corporation holding itself out as solicitors and soliciting legal business. The Secretary was instructed to refer the matter to counsel for an investigation of the various facts in the letter of complaint to see whether there was a breach of Section 50 of The Law Society Act.

8. The Secretary reported that he had received a complaint from a solicitor concerning an advertisement which appeared in the Sudbury Star of November 8th, 1977 which stated that the agency and its labour relations consultant would act for any person as agent before the Ontario Labour Relations Board. The Secretary was instructed to refer this matter to the Vice-Chairman for an opinion as to whether it would be unauthorized practice for a lay person to act as agent before the Ontario Labour Relations Board.

**THE REPORT WAS RECEIVED**

. . . . . .

## LEGISLATION AND RULES COMMITTEE–Mr. Furlong

Mr. P.G. Furlong, Chairman, presented the Report of the Legislation and Rules Committee of its meeting on Wednesday, 9th November, 1977.

The following members were present: Messrs. Furlong (Chairman), Cass, Common and Wilson, and Mrs. Legge.

1. SUBSECTION 13 OF SECTION 33 OF THE LAW SOCIETY ACT – SERVICE OF DOCUMENTS

The Report of the Policy Section of the Discipline Committee for June 1977 recommended to Convocation that provision be made for some form of substitutional service. Convocation amended that Committee's report with the result that the item now appears as follows:

> " At the present time section 33(13) of The Law Society Act provides that service of documents shall either be by personal service or by mailing a copy in a registered letter addressed to the lawyer at his last known residence or office address as shown by the records of the Society. Your Committee recommends that an amendment be

sought to the Act to provide that where a document has been served by ordinary mail addressed to the solicitor at such address it shall be deemed to have been served on the fourth business day following the date of mailing."

This Committee upon consideration of the matter recommended that the present subsection 13 of section 33 of The Law Society Act which reads as follows:

"33.–(13) Any document required to be served under this Act upon a person whose conduct is being investigated shall be served personally upon him or by mailing a copy thereof in a registered letter addressed to him at his last known residence or office address as shown by the records of the Society, and service shall be effected not less than ten days before the date of the hearing or the event or thing required to be done, as the case may be, and proof by affidavit of the service is sufficient."

be repealed and the following substituted therefor:

33.–(13) Any document required to be served under this Act upon a person whose conduct is being investigated shall be served upon him,

(a) personally; or

(b) by mailing a copy thereof in a registered letter or by ordinary mail addressed to him at his last known residence or office address as shown by the records of the Society,

and service shall be effected not less than ten days before the date of the hearing or the event or thing required to be done, as the case may be, and proof by affidavit of the service is sufficient.

(14) Where any document mentioned in subsection 13 is served by mail, service shall be conclusively deemed to have been effected on the fourth business day following the date of mailing.

## 2. SECTION 50 OF THE LAW SOCIETY ACT – LIMITATIONS

The report of the Unauthorized Practice Committee to Convocation in September 1977 contained the following item:

" The Committee again discussed the handicap under which it operates by virtue of the six months limitation period under The Summary Convictions Act and your Committee unanimously passed a resolution requesting that Convocation seek to have The Law Society Act amended by providing for a one year limitation period for the institution of prosecutions under that Act. This would obviate an amendment to The Summary Convictions Act and provide

a reasonable period of time in which an investigation can be carried out."

This Committee recommended that the present subsections 3 and 4 of section 50 of The Law Society Act be renumbered to subsection 4 and 5 respectively, and that a new subsection 3 be enacted to read as follows:

50.–(3) No proceedings shall be instituted for an offence under subsection 1 more than twenty-four months after the time when the subject-matter of the proceedings arose.

**THE REPORT WAS ADOPTED**

. . . . . .

**REPORT ON SPECIAL COMMITTEES**

The Treasurer reported on the status of the various Special Committees of Convocation and the Society. His report covered the activities of 24 Special Committees which deal with errors and omissions insurance, renovations to Osgoode Hall, election procedures, prepaid legal costs insurance, prisoners' rights, publication of decisions of the Discipline Committee, the Attorney General's Professional Organizations Committee, Specialization in the Practice of Law as well as other matters.

. . . . . .

**PROFESSIONAL CONDUCT COMMITTEE–Mr. Cooper**

Mr. A.M. Cooper, Chairman, presented the Report of the Professional Conduct Committee of its meeting on Thursday, 10th November, 1977.

The following members were present: Messrs. Cooper (Chairman), Carnwath, Chappell, Lochead, Outerbridge, Pomerant, Strauss and Mrs. Sutherland.

1. A Toronto lawyer asked whether the Society would have any objection to the use of the name "Osgoode" by a client who wishes to incorporate his business under the name "Osgoode Translations Limited". For six years the client has carried on the business of translating highly technical material from

French to English and vice versa under the firm name of "Osgoode Technical Translations". The Committee was of the opinion that it could not approve the use of the name "Osgoode" particularly for a corporation as the firm or company could do legally related work and thereby might confuse the public, or imply some sort of authority.

2. Some time ago a member wrote requesting a Ruling concerning a procedure which had been the matter of some discussion between his firm and another local law firm. The member had taken the position that when the other law firm acted for a mortgagee in respect to a loan to a client of his where he was involved on behalf of that client with the purchase of the property giving rise to the loan transaction, the mortgage documentation should be prepared by the firm acting for the mortgagee and forwarded to his office for execution by the mortgagors. He had also taken the position that all dealings with his clients should be completed through his office. The other firm, however, did not accept this position and the matter was submitted to the local Law Association for some direction. The Minutes of the executive meeting of the association read in part as follows:

> "A letter was received from a local firm asking for the Executive's opinion on a matter of local mortgage practice. The question was as to whether the mortgagee or the mortgagee's solicitor could require mortgage documents to be executed at the offices of the mortgagee's solicitor or in his own solicitor's office. The consensus was that if the mortgagee's solicitor is aware that the mortgagor is represented by another solicitor then the mortgagee's solicitor should accede to the mortgagor's request that the execution of documents be with the mortgagor's own solicitor."

Notwithstanding this opinion the law firm in question refused to permit the execution of the documents elsewhere than in their office. The firm's comments having been received, this matter then was referred to the Committee. After some discussion the question was referred to a member of this Committee to draft a response to the lawyers concerned. The following are the principles that the member believes to be involved with his comments on each:

> "The mortgagee and its lawyer feel they have a responsibility to see that the documents are explained to the mortgagor. However, if the mortgagor has his own lawyer he is the better person to make that explanation, because he was the lawyer chosen by the client.

The mortgagee or the mortgagee's lawyer wish to be sure that the documents are properly executed and by the proper person. No doubt in the past mortgages have been completed with the assistance of a notary public, a commissioner, a clerk or a secretary and mistakes were made which resulted in delays and further attendances. However, if the mortgagor executes before his own lawyer there can be no complaint. If there is a mistake, the responsibility is on the mortgagor and his lawyer to correct it at their cost.

If the mortgagee's lawyer attends upon the mortgagor for the execution, he is taking serious chances. He does not know the person who is appearing before him as mortgagor, except perhaps in a small town and it is very possible that he could advance the funds to the wrong person. If he answers almost any question asked by the mortgagor, there is a chance of conflict between what he implied and what the mortgagor inferred. To avoid being challenged later he would probably have to set his instructions and advice out in a letter.

In conclusion, in all cases the mortgagor should be advised that he has every right to have his own lawyer advise him and to attend upon him at the time of the execution. Of course, the mortgagee could require that as a term of the loan the documents must be executed in their boardroom on the 98th floor, or in their lawyer's office on the 10th floor, but it is highly unlikely that a mortgage trust company would have so much business that it would exhibit an attitude so little favoured by the Bar."

The Committee has approved of the foregoing.

**THE REPORT WAS ADOPTED**

. . . . . .

**SPECIAL COMMITTEE ON**
**J. SHIRLEY DENISON BEQUEST**

Mr. P.B.C. Pepper, Chairman, presented the Report of the Special Committee on J. Shirley Denison Bequest of its meeting on Thursday, 10th November, 1977.

The following members were present: Messrs. Pepper (Chairman), Cass and Furlong.

**APPLICATIONS**

The Committee had before it four applications for grants. The Committee recommended that grants be made to three applicants. With respect to one of these grants the Secretary is

to satisfy himself as to the applicant's need and with respect to another that the applicant will benefit.

With respect to the fourth application, the Committee recommended that no grant be made at the present time.

**STUDENT APPLICATIONS**

The Committee considered an application from a student in the Bar Admission Course in Ottawa and recommended that a grant be made, subject to the Chairman being satisfied as to the applicant's need.

The Committee had before it applications from eight students in the Bar Admission Course together with a memorandum prepared by the Assistant Director of the Bar Admission Course recommending that two grants be made. The Committee approved this recommendation and recommended that two grants be made.

**THE REPORT WAS ADOPTED**

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**ADMISSIONS COMMITTEE SITTING ON A HEARING UNDER SECTION 27(4) OF THE LAW SOCIETY ACT**

Mr. P.B.C. Pepper, Chairman, presented the Report of the Admissions Committee sitting on a Hearing under Section 27(4) of The Law Society Act with respect to the petition of a student in the Eighteenth Bar Admission Course on Wednesday, 19th October, 1977.

The following members were present: Mr. P.B.C. Pepper, Chairman, Mrs. L.L. Legge, Vice-Chairman, Messrs. Finlayson, R.J. Gray and Mrs. Sutherland.

**HEARING UNDER SECTION 27(4)**

The petitioner submitted a petition and attended before the Legal Education Committee in April, 1977. He failed to obtain pass standing in the Bar Admission Course and petitioned to be granted pass standing and to be called to the Bar

and admitted as a solicitor. The petitioner attended without counsel and made submissions. The petitioner was on leave of absence from his employer with whom he had articled. He stated that it was not his intention to practise privately, but to continue in his present employment and had a position conditional upon his call to the Bar. At that time the petitioner submitted a statement from a senior psychologist recommending that the petitioner take articles to complete his legal training. His application was denied.

The petitioner sought permission to appear before a committee of Benchers pursuant to Section 27(4) of The Law Society Act. A copy of his Special Petition was before this Committee.

The petitioner attended with his counsel, Mr. Ian Scott.

The Chairman said the Committee had discussed the matters raised by the petitioner and had been troubled as to this Committee's right to grant the relief requested. The Committee accepted that it has jurisdiction under Section 27(4) and having heard counsel but no evidence, the Committee denied the petition on the plain ground that no certificate of passing the Bar Admission Course can be produced and there is, therefore, no way for this Committee to grant the relief requested.

There is no prejudice to the petitioner making another application to the Legal Education Committee for such relief as he may be advised.

**THE REPORT WAS ADOPTED**

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**CORRESPONDENCE**

The Treasurer informed Convocation that he had written to Mr. Arthur A. Rich, Q.C., President of The Law Society of Manitoba, on 24th October, 1977, conveying on behalf of the Benchers and members of The Law Society of Upper Canada congratulations on his Society's one-hundreth anniversary, and that he had received an acknowledgment from Mr. Rich on behalf of The Law Society of Manitoba.

. . . . . .

**CONVOCATION ROSE AT 4:45 P.M.**

. . . . . .

Read in Convocation and confirmed 19th January, 1978.

W. GIBSON GRAY
Treasurer

LSUC Great Library
1 1797 00043588 1